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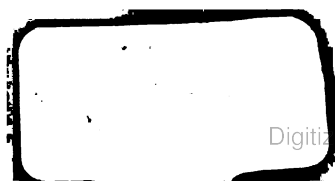
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**"THE LANOX OF AULD."**

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**AN EPISTOLARY REVIEW**

**OF**

**"THE LENNOX, BY WILLIAM FRASER."**

**BY MARK NAPIER.**

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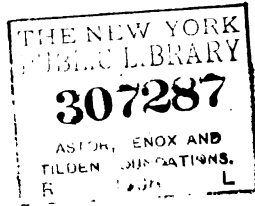
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## N O T E.

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*The work which is now issued was completed by my father as far back as the year 1875. It was printed under his supervision, it received his last corrections, and it is published in conformity with his express desire, conveyed to me shortly before his lamented death. It was the intention of my father to attach to this Epistolary Review of "The Lennox, by William Fraser," an Appendix in which he had embodied the definitive results of his inquiries into the history of his own ancestors, and especially into that of the collateral races of Napiers who settled in England. The preparation of this Appendix retarded the publication of the original book and occupied the leisure hours of my father as long as he could lend his attention to researches on which, during a long life, he had bestowed so much industry and fondness. At the time of his death the compilation remained unfinished. As it has no direct connection with the questions debated in the "Epistolary Review," and as the latter is complete in itself, it is submitted alone, without further delay, to the students of historical and family antiquities.*

*Mr Fraser will not fail to remark that my father entertained the conviction that certain illustrations in the second volume of "The Lennox" had been copied by a photographic process from the "Memoirs of John Napier of Merchiston" without his permission, and, indeed, against his wishes, which had been made known to Mr Fraser. If my father was in error in believing that Mr Fraser had committed this act of literary discourtesy, it is open to him to explain in what manner those illustrations were obtained.*

FRANCIS NAPIER.



Catherine Shannon married James  
Pearce of Colchester, Kent Co. Md.  
Their children were Gideon and  
Catherine Ramsay -

Gideon Pearce married Julia,  
daughter of Elisha Cullen Dick,  
of Alexandria, Va. -

Catherine R. Pearce remained  
unmarried -

The children of Gideon & Julia  
Pearce were, James Alfred,  
and A. O. Pearce -

James A. Pearce, who was U.S.  
Senator from Maryland -  
married Martha Laird -

Their children were Catherine -  
Charlotte A. Lennox - and Jas. A.

I married the second daughter,  
Charlotte, who was named for her





must have been wrong -

As Col Ramsay was of the family  
of the then Earl of Dalhousie, and I  
have been informed, it is possible  
that "Burke's Peerage", or some  
similar work may throw light  
on the question -

The "Memoirs of Henry Lennox", by  
Mrs C. Lennox, ought to give  
some information touching it.

Some day, when I go home, I will  
examine the records, & if I find  
any thing to prove, or disprove,  
the fact, I will be happy to  
communicate it to you.

\* I enclose a photograph of an  
old print of Mrs Lennox, which I  
venture to think you may find interesting.

Very respectfully & Arthur Crisp





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The right to carry armorial bearings as a right of property, and to protect them from obreption, recognised as the law of Scotland by institutional writers, and by the Supreme Court—The law illustrated, with the opinions of the Judges, in the cases of *Dundas v. Dundas*, 1762, in which the Court interfered peremptorily with an award of the Lord Lyon's—Also in the case of *Smith Cuninghame of Caprington v. Sir Robert Dick Cunyng-ham of Prestonfield*, in which the Supreme Court asserted their right to review the heraldic judgments of the Lord Lyon—Opinion expressed, on the collateral question of armorial chieftainship, whether in the heir of line or the heir male, by Lords *Jeffrey* and *Fullerton*, that "the chief armorial dignities should follow the more substantial rights and dignities of the family"—The crucial test, a peerage descendable to females—Obreption of coat of arms how punishable by law—Ranked among real injuries by Erskine and Sir George Mackenzie, such as "spitting in a man's face," "riving and abusing his clothes," or "ras-ing (riving?) shamefully a man's hair or beard"—*Verbum sapienti.* *Pages 112-118.*

Dr Daniel Wilson, now Professor at Toronto, his "Memorials of Edinburgh in the Olden Times"—His notices of the armorial and obituary monuments in St Giles' Church—Mis-led by a lapidary to read the armorial shield carved on one of the memorial pillars, as the arms of "Isabella, Duchess of Albany and Countess of Lennox," being in fact the simple *engrailed* Lennox cross of Merchiston, representing the armorial shield of Sir Alexander

Napier, Provost of Edinburgh during restorations within the church in the reign of James II.—Woodcut of the charter-seal of the Duchess-Countess corrective of the blunder—Correspondence with the late Lord Napier on the subject, illustrated with sketches—Mr Deuchar, the misleading lapidary, disabused, in 1832, of an ecclesiological blunder provokingly revived again, in 1848, by the greatest Scotch Ecclesiologist of his day. *Pages* 118-122.

Historical notices of Sir Alexander Napier of Philde and Merchiston—His armorial shield carved on the capital of the pillar in St Giles' Church to the south of the altar, hitherto erroneously assigned to the Duchess-Countess of Lennox—Son and heir of Alexander Napier, Provost of Edinburgh, King's merchant, and first acquirer of the lands of Merchiston—Young Alexander brought up in the household of James I. and his Queen Joanna—Attached to the household of the widowed Queen after the murder of her husband—Desperate attack upon the Queen in Stirling Castle, 2d August 1439, by the governing faction of the Livingstones, to obtain the custody of her person—Alexander Napier grievously wounded in a gallant attempt to rescue her—The fact, escaping history, narrated in the royal charter of the lands of PHILDE, forfeited by one of the traitors, and bestowed upon the Queen's champion by her son, James II.—Translation of the Latin charter, of date 7th March 1449, with fac-simile of the young King's signature—The traitor brothers, Livingstones, hanged in that year on the Castlehill of Edinburgh, and the office of Comptroller of the Royal Household, hitherto held by Robert Livingstone, bestowed, along with the lands of Philde, upon Alexander Napier, younger of Merchiston—Rises rapidly, and with an unblemished character, through the highest offices of the State and of the country, in the most troublous times—One of the Ambassadors for establishing amicable relations with England, in 1451, *vita patris*—Succeeds his father as Provost of Edinburgh—So designed in the years 1455, 1457, and 1469, dates comprehending the period of the addition to the choir of St Giles' Church including his memorial-pillar—James II. promotes the marriage of his son and heir, John Napier, to Elizabeth Menteith, co-heiress of Lennox and Rusky—Royal gift of her *maritagium* "to his belovit servitor, John Naper, son and heir-apparent of Alexander Naper of Merchamston," 26th March 1455, with fac-simile of King's signature—In 1457 "ordaynet and chosen for visiting the monies"—In 1464-5 appointed one of the searchers of the port and haven of Leith to prevent the exportation of gold and silver—In 1473 again a Parliamentary Commissioner for "searching of the money"—Knighted at commencement of the reign of James III., and exonerated as Royal Comptroller in the previous reign, in these words, "received from our belovit Knight, Alexander Napare of Merchamston, our Comptroller, good, faithful, and final accounting," dated at Stirling 7th July 1461, "*et Regni nostri primo*"—Fac-simile of the young King's signature, about nine years of age—Sir Alexander one of the Ambassadors to England under a safe conduct from Edward the Fourth, 24th September 1461, also the first year of that Monarch's reign—Designed therein "Alexander Napare of Merchamstoun, Knight, Vice-Admiral of Scotland"—In 1468 joined with the Chancellor Avandale to negotiate the marriage between the young King of Scots and the Princess of Denmark—In the Parliament held after the nuptials designed "*Dominum Alexandrum Naper, Secretarium*"—In 1471-2 in Flanders in his quality of King's merchant and "rich burgher of the deep," making purchases for James III., who acknowledges receipt "be the hands of ane richt honorable and worshipful man, Sir Alexander Napare of Merchamstoun," of the



sum of two hundred pounds Scots, being finance taken up for the King, in the town of Bruges, in Flanders, and also that the King remits to the said Sir Alexander one hundred crowns for certain *grath* (Flemish armour) bought and brought home by him to the King—Often at the Court of Burgundy—At Bruges when under the excitement of a chapter of the *Toison d'Or*, during the tournament of the golden tree—Ambassador to that Court with important and secret “Instructions given to Sir Alexander Napare of Merchinstoune, Knight, on behalf of the King, to be shawin to the Duc of Burgunze, his derrest coussin and confederat”—The instructions still preserved among the archives of Merchiston, of date 1st May 1473—Fac-simile of them *photozincographed*, in Part II. of the National Manuscripts of Scotland, 1870—Sir Alexander returns to Scotland in the month of October, of the same year as his mission—In great favour with James III.—At this time Master of the Household—Gift to him under the privy seal and sign manual of the sum of two hundred and fifty merks for the composition of the casualties due to the Crown on the feudal entry of Elizabeth Menteith to her great heritage in the Lennox, “the quhilk sum we have, in favour of the said Sir Alexander, for his lele and treu service done of lang tyme to us and our progenitouris of most noble mynde, remitted and forgiven, and by thir oure lettres remittis and forgives to the said John Napare and Elizabeth, his spouse,” and their heirs for ever—Fac-simile of the sign manual to the deed, dated at Edinburgh 24th October 1473, and 14th year of the reign—The death of Sir Alexander a few months thereafter proved by the infeftment of John Napier in the lands called the “Philtre Lands,” carrying with them the hereditary office “Pultrie Regis,” as “nearest lawful heir of the late Sir Alexander Napare, his father,” 15th February 1473-4—His remains deposited in the family vault beneath the “recessed altar,” to which Dr Daniel Wilson refers in his letter from Toronto as belonging to the Merchiston family—Not aware of the injustice he had committed to the memory of this great man by misreading the memorial-pillar dedicated to him in the choir of St Giles’ Church—His character—His family and possessions—First conspicuous head of the great burghal, knightly, baronial, and eventually noble House of Merchiston. *Pages 123-134.*

Mr David Laing’s historical notices of St Giles’ Church, introductory to his valuable cartulary, edited for the Bannatyne Club, 1859—His account of the armorial pillars illustrated with accurate woodcuts—Avoids the armorial blunder, relative to the Merchiston pillar, which still disfigures the latest edition (1872) of Dr Daniel Wilson’s *Memorials of Edinburgh*—The Toronto Professor exonerated from its *reappearance*—Mr David Laing’s *lapse* into Sir George Mackenzie’s blunder anent the engrailed Lennox cross of Merchiston—The armorial shield, referred to by Mr Laing, itself corrective of the historical error, being that of the *father* of the man said to have *assumed* it in right of his wife—Another of these armorial pillars erroneously entitled “Cranstoun,” following a blunder of Mr Deuchar the lapidary, mistaking the bearings, three nondescript fowls on the field, wandering like geese on a common, for the cranes of Cranstoun—No more cranes than lapidaries—*Ecce signum.* *Pages 135-138.*

Strange liberties taken with the noble science by the “Arranger of the Historical Houses of Scotland”—In the armorial title-page to his Book of the Carnegies, arranged for the Earl of Southesk, mangles the blazon of Carnegy of Craigo, an ancient cadet of Southesk—Pronounces the matriculation of that family in the Lyon Register *circa* 1672 to be “manifestly erroneous,” in respect “that the charge on the eagle’s breast is stated to be a *cup*,” that being the royal insignia of cupbearer charging the azure breast of the eagle of South-

esk, chief of the Carnegies—Chides the Lyon of the day, and impugns his Register, for thus bestowing upon a cadet the ensigns armorial of his chief—The Arranger of Historical Houses takes upon himself the prerogative of Lyon King, and deranges the ancient blazon for Craigo, with this order, “a *fleur-de-lys* has therefore *been substituted for the cup*, being the conventional mark of cadency for a sixth son”—Changes the motto “*Ales* (the eagle) *aspicit astra*,” (as accurately given in the Lyon Register impugned), into “*alis*,” making the bird of Jove gaze at the sun with his wings—The prestige of the old Lyon Register rescued from this mangling and blundering—*Not the fact* that the word “cup” is “stated in the Register”—On the contrary, it thus accurately blazons Craigo, “Or, an eagle displayed *azure*, surmounted on the breast with a *BOOK* of the first,” and for motto, “*Ales aspicit astra*”—The bearing of *the book* venerated in the Craigo family as emblematic of their descent from the Dean of Brechin and the Parson of Barrie—Amusing result of this assault upon the Lyon Register’s matriculation of Craigo, and gratuitous assumption of the office of Lord Lyon—Scene in the Lyon’s den—An energetic and proud old lady, representing the family, and holding *the book* as sacred as her Bible, confronts the startled but blameless Lyon, calls upon him to ramp, to bring this presumptuous invader of her ensigns-armorial to book, to interdict him from thus giving the lie to the armorial bearings on her own plate and carriage, and in short to make him eat his *fleur-de-lys*. Pages 138-142.

Another invasion of ancient armorial bearings by the Arranger of Historical Houses—Undertakes to edit a print of the Cartulary of Cambuskenneth (a pet manuscript preserved in the Advocates’ Library) as the Marquis of Bute’s contribution to the “Grampian Club”—Patronises his patron with just praise of his liberality, sweetened with a very equivocal compliment to his genealogy—Disfigures the Bute contribution to the Grampian Club, and derogates from the Cambuskenneth Manuscript, by mistaking the cross of an archbishop’s crozier for an armorial crest, and bestowing the illustrious ensigns-armorial of Randolph Earl of Moray, as carried by Lord Chancellor Gavin Dunbar, upon Alexander Milne, Abbot of Cambuskenneth, whose arms are unknown—The blunder critically examined, and illustrated with a woodcut. Pages 142-146.

The *Ultima Thule* of “The Lennox by William Fraser,” entitled “Armoial bearings of the Earls and Dukes of Lennox” (vol. i., p. 531) arrived at—Apparently an *ex post facto* arrangement, which lawyers call an *add-and-eik*, and builders a *back-jamb*—Reasons for the surmise—This *finale* simply a piece of bold and incongruous *obreption*, characterising “The Lennox by William Fraser” with another instance of self-contradiction—In the *portico* of that palatial edifice the *pure shield* of the Lennox is claimed for Auchencruive; and in the corresponding official register of the Fraserian blazon for that family, the third quarter is expounded thus, “*argent*, a saltyre *engrailed* betwixt four roses *gules*, for *Lennox*,” being the arms of Merchiston duly differenced—In the *back-jamb*, however, (p. 531) appears a commentary on the arms of “Lanox of Auld,” concluding with these words: “But it is a mistake on the part both of Balfour and Nesbit to represent the Lennox saltyre as *engrailed*: the earliest instances shew that it was carried plain, and not *engrailed*, except in one instance, when Robert Earl of Lennox, the younger brother of the Regent Lennox, got a special grant of the earldom. The following reference to “*Lennox armorial seals still existing* will shew the original arms of the *first race* of “Lennox earls, and also of the *second race* of the Stewart line”—The Lennox by William Fraser, questioned—“Where got you the fact that the old race of Lennox never *engrailed*

the saltier?"—"What enabled you to illustrate that fact with a series of armorial pictures, even to the effect of an unexplained self-contradiction?"—Answered—The whole is conveyed from "Memoirs of Merchiston" and "History of the Partition of the Lennox"—Indignant remonstrance against the plagiarism, involving a breach of courtesy and an invasion of private property—The accusation circumstantially illustrated—But the patrons of "The Lennox by William Fraser" entirely exonerated from any participation whatever in this *modus operandi*. Pages 146-152.

The abuse of the reproductive power of *photo-lithography* contrasted with the real use and marvellous display of its excellence and beauty in the hands of Sir William Stirling Maxwell—The *back-jamb* to "The Lennox by William Fraser" *impounded*—The penalty exacted according to the laws of arms and chivalry in the olden time of "LANOX OF AULD." Pages 152, 153.

AN  
EPISTOLARY REVIEW  
OF  
"THE LENNOX, BY WILLIAM FRASER."

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SIR,

Some years ago I was first made aware of the advent of your recent work,—so curtly and courageously entitled, "The Lennox, by William Fraser,"—through a personal application from yourself for the loan of any woodcuts, or other graphic illustrations, formerly used in my "History of the Partition of the Lennox," published in 1835. I was obliged to decline that request, having, as I stated at the time, some ulterior views of my own on the same subject. Your voluminous compilation, which has since made its appearance, although of a somewhat heterogeneous character, instead of altering my original intention, affords an additional incentive not to forego it. Such a production could not fail to revive my ancient zest for the field of "Lanox of Auld,"—quaintly so named by Sir David Lindsay, on which I used to do battle, *à toute outrance*, with my old, much esteemed, and formidable antagonist, *in rebus antiquissimis*, the late Mr John Riddell. Indeed I had looked forward with great interest to the perusal of whatever you might have to say on the almost forgotten question of the right to the old earldom of Lennox; and also with some curiosity as to what new phase a subject, long years ago worn nearly thread-bare, by Robert Hamilton for Lennox of Woodhead, John Riddell for Haldane of Gleneagles, James Dennistoun for the Maitland Club, and myself for Napier of Merchiston, was to assume under your decorative hands. For truly of yourself, Sir, it may be said,—*Nihil quod tetigit non ornavit*.

When, therefore, I found your tomes on my table, all dazzling without and bewildering within, accompanied with a printed circular intimating that they came to me from yourself, I lost not a moment in writing

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you a friendly note of acknowledgment for the unexpected presentation. Subsequently, however, I learnt that my thanks were properly due to the gentlemen acting for the late Mr Oswald of Auchincruive (your patron in this undertaking), to whom accordingly I repeated them, through their man of business, to whose kindness, indeed, I was chiefly indebted for the compliment.

I have now completed the somewhat arduous task of mastering the contents of your two volumes, which owe their formidable dimensions in no inconsiderable degree, so far at least as the question of right to the old earldom of Lennox is concerned, to what may be fairly described as the "leather and prunella" of your ambitious production. Nevertheless I have perused the whole with sufficient attention to enable me fully to appreciate your work in all its bearings. At first sight it appears to be one of the same character and design as that long series of family records the "getting up" of which, if I may use the familiar expression, has established your fame as a sort of landscape gardener among antiquarian family bibliographers. I am happy to find, however, that in this supposition I was mistaken; and that, in critically reviewing a work wherein you certainly treat *my* Lennox somewhat scurvily, I do not run my head against any family affair, in the shape of a purely family chronicle, an invidious position from which I would be inclined to shrink. Your former labours were devoted to fulfilling the wishes of some noble or ancient house, by examining, arranging, and digesting the family archives, to be historically applied, so far as the materials might prove available for that purpose, and to be privately printed for distribution among relatives and friends. All far descended families, whether ennobled or not, and even a few (if they be rich) who are neither ennobled nor far descended, are more or less imbued with the natural desire of recording their families, either for historical preservation or social elevation, in a form at once permanent and attractive. You have done very good service in your own generation by ministering to this laudable and natural feeling. Bear witness your books of Eglinton, and Carlaverock, of Keir, Pollok, Colquhoun, and Grandtully. Pardon me if I have omitted any. These *family* records, edited under the responsibility, and the orders, if not the

eye, of the head of the house in each case, you have *educated*, so to speak, with a praiseworthy zeal, which, although occasionally leading you into serious mistakes, as was to be expected from the courtly design of your works, has proved you not unworthy of the trust committed to your talents and your taste.

This present issue, however, is something very different. It is not a family book at all. It is a work altogether *sui generis*, and of a somewhat anomalous character, less commendable in the conception of it, and more aggressively inclined in the execution. It could hardly have issued from any family in its present shape. Professing to be of a like nature with your former productions, the essential characteristics are wanting. What *family papers* are you here editing? A whole wilderness of old Lennox charters, courteously permitted to be printed from the muniment room of the Duke of Montrose, and which, by the way, have not furnished a single new *historical* fact about the old Earls of Lennox, will not constitute family papers, or create a family book. There is no existing family, or domestic circle, to hail this book as the chronicles of their house. The very fact of these charters being in the Montrose muniment room reminds us that "Lanox of auld," as a family, such as once it was, is now dead as the Dodo. The place that knew it knows it no more. Lennox charters certainly do not constitute the family book of the Ducal House of Montrose. Indeed I have a better right to be regarded as its historiographer than yourself, although you seemed to think otherwise, by ignoring me altogether in your official report of the Montrose historical papers at Buchanan "as an Inspector for Scotland" under a royal commission which certainly never contemplated a special report upon documents which had been discovered and published before. Neither is this book of yours the family book of Lennox of Woodhead. On the contrary, it is necessarily based on a rejection of the claim to the old earldom of Lennox long ago maintained for that family; although I perceive that, with courtly dexterity, (a lady being in the case), you evade in *your text* the serious flaw in that claim (to which I had devoted a whole chapter), and only venture to save the established fact in your *index*! Nor can this be considered the family book of the Haldanes of Glen-

eagles, whose claim to the old earldom, also long cherished, would in like manner be absolutely excluded were your argument in favour of Lord Dernely well founded. Far less can it be regarded as the family book of the Haldanes of Haldane in Roxburghshire, an old worn out family which has been landless, as regards their *ilk*, for centuries, which can scarcely be said to have ever been known as a family historically speaking, and the true current of whose scattered genealogy becomes, if traceable at all, lost at last, except to such explorers as yourself, by meandering in streamlets amid a whole *Delta* of daughters. And lastly, it would be strange indeed if those isolated, and all but useless, Lennox charters, could by any ingenuity be manipulated into a *family book*, for the Oswalds of Auchencruive. What, then, is the nature of your *magnum opus*? Precisely what you call it,—“The Lennox, by William Fraser.”

The minute, and even anxious, though not always intelligible, explanations in your Preface as to how this great event from trivial causes sprang, all tend to impress upon your readers that you yourself are the *dominus litis*. I desire to speak with the greatest respect—(as who would not)—of the late Mr Oswald of Auchencruive,—a most amiable gentleman, deservedly popular while he lived, and much lamented when he died. But a few crude and floating ideas entertained by him (as we learn from yourself) of some ancient descent, through successive females, from these old Haldanes of *that ilk* in Roxburghshire,—a border race having nothing to do with the Lennox,—will not suffice to involve the late Mr Oswald in any of the responsibility of the great work you have just issued. For that work, which he lived not to see or to name, and which the Maitland Club lived not to print or to bind, is in no respect characteristic of a composition by the one, or a contribution to the other. It is discourteously aggressive as regards the labours of others in the same field. It is wrong in its History of the Lennox, and commits high treason against its Heraldry. And whatever Mr Oswald may have intended, as you inform us he did (p. ix. of Preface), to contribute to the valuable stores of the late Maitland Club, surely these books of yours cannot be intended as a fulfilment of the lamented gentleman's own wishes in that respect. The Maitland Club was already in possession of

a sufficient cartulary of the Lennox, edited by the late Mr Dennistoun of Dennistoun, with an admirable historical introduction, which really left nothing of the kind to be desired. Your own frequent references to it prove its value. And can we imagine that these gorgeous tomes of yours, all a-blaze in the royal livery, and with sins both of omission and commission on their head, could ever have been intended, in their present shape, as a fitting offering to the Maitland Club, a very Quakeress in the simplicity of her outward garb, and a perfect purist in the antiquarian originality of her impartial and passionless pages.

In another respect your explanatory preface is very unsatisfactory. You lay stress on genealogies we must take on your own authority, for you furnish not the twig of a tree, or a single item of proof. And, trenching recklessly upon the heraldic rights of others, you deal with, and dispose of, the most illustrious "ensigns armorial" the heraldry of Scotland can boast of, upon the footing of a private *ex parte* negotiation of your own with the late Lyon-depute (an excellent gentleman, and valued friend of my own, but certainly not a Sir David Lindsay of the Mount), without venturing to exhibit even the shadow of a picture of the strange "letters patent" of matriculation you so triumphantly announce in general terms, although all your other productions are the very picture-books of heraldic devices. As to this, however, more in the sequel.

How all this has come about, you profess to explain in a paragraph or two of mere talk, not so intelligible as it is tall. List from your graves, Agnes, Ann, Isobel, Janet, Lillias, Margaret,—ye six sisters of the house of Haldane of Haldane, in Roxburghshire, who, during the last century, and the beginning of this, represented that now landless ilk,—how lofty was your House, though its bean-stalk be broken.

In the year 1858 the late Mr Alexander Oswald of Auchencruive consulted me in reference to his descent from the family of Haldane of Haldane, an ancient border race, which long held a barony of that name in the county of Roxburgh. From family tradition he understood that he was the heir of line and representative of the Haldanes of that ilk; but he had no evidence to that effect, and no attempts had been made to recover evidence of his descent in any authentic form. Mr Oswald wished me to make investigations on his behalf, to enable him to obtain a formal grant of the armorial bearings and authority to assume the surname of Haldane of Haldane. After extensive research, in the course of which I had once more to examine the contents of the charter-room at Buchanan, I was enabled to place before Mr



Oswald complete legal evidence of his descent from the ancient House of Haldane.—  
(*Preface*, p. vii.)

A curious ambition this, certainly not rendered very intelligible by your own record of it. What possible connection can this have with the growth of eleven hundred quarto pages of a history of the Lennox? This question is by way of being answered a page or so further on.

The Haldanes of that ilk being directly descended in the female line from the ancient Earls of Lennox, Mr Oswald was naturally anxious that the documents proving this descent should be preserved in an accessible shape, and, after full consideration, gave me a commission to form this collection of the Lennox charters into a Book on the Family of Lennox, similar to those works which have been arranged by me for several of the Historical Houses of Scotland. The two volumes now finished are the result of my labours under this commission from Mr Oswald.—(*Preface*, p. ix.)

But what “documents proving this descent” have you preserved in an accessible shape? Where are they? What on earth has a “Book on the Family of Lennox,” carved out of a “collection of Lennox charters,” to do with the race of Haldane of that ilk? Can you possibly mean that this old Border race are “directly descended” from “the ancient Earls of Lennox,” because one of a legion of daughters, among whom that Border stock became diffused to evaporation, married, so recently as 1675, a *second* son of Gleneagles?

As regards the beauty of your book, however, there can be but one opinion. In that you have been eminently successful. Your long practice in the decorative art of book-making has not failed you in this instance, and the *carte blanche* so liberally allowed for that purpose has not proved unfruitful in your hands. When your luxurious and priceless productions happen to fall under the inevitable obituary hammer, *rari nantes in gurgite vasto* of a Chapman or a Dowell, they are instantly seized upon with an aristocratic monopoly that excludes all ordinary competition, like royal sturgeons who have lost their way and are in danger of falling into vulgar hands. Then, Sir, is your hour of triumph.

But, on the other hand, if a history of the Lennox still possess (as, I fear me, it does not) one tithe of the historical importance, or general interest, which the magnitude of your quartos is apt to suggest, it must be matter of great regret to any enthusiastic historical antiquary,

who may have studied them diligently in hopes of finding something new and valuable among your eleven hundred pages, (especially myself, whom you pointedly excuse for my ignorance, as not being in possession of your superior information), that he should rise from the perusal under the disappointed feeling that all is not gold that glitters.

Your prefatory notice of myself, named conspicuously at the outset as one who, having only "obscured" the history of the Lennox, may be dismissed at once without further consideration, I cannot avoid regarding as a public challenge. For is not your work, at your own suggestion, or through the commendable liberality of those acting for the late Mr Oswald, to be found already in all great libraries, public and private? And with what a flourish of trumpets is not the advent of "The Lennox, by William Fraser" heralded!

Many questions have been raised about this portion of the Lennox, and I have devoted considerable trouble to the investigation of it, the result of which will be found in the text, and which, I venture to think, gives a true account of the matter. Hitherto it has, unhappily, been much obscured by special pleadings, and by ingenious but partial discussions. Mr Napier, in his "Partition of the Lennox," not only fails in his attempt to establish a claim for the Napier family, but even supplies materials which help to set that claim aside. He does injustice to John Lord Darnley, whom he represents as an ambitious usurper, whereas Darnley, whatever in other respects he may have been, was in this case only prosecuting his rightful claims to the half of the earldom of Lennox, and to the title of Earl of Lennox, of which he was long unjustly deprived. Mr Riddell, who at first undertook to advocate the claims of Lord Napier, but who afterwards became the champion of the Haldanes, is more to be commended in his remarks on the Lennox peerage, for the information and original documents which he quotes, than for his arguments, which form an entangled web, not unfrequently perplexing to the reader, who can hardly hesitate to give Mr Riddell the credit for candour when he speaks of the "motley appearance, in some degree, of his productions, 'The union of the *Serpentes* with the *Avibus*—the *Delphinum* in *Silvis*.'"

The Lennox lucubrations, both of Mr Riddell and Mr Napier, were issued by them without having had access to the large collections of Lennox charters, now printed in these volumes for the first time. The works of these two learned authors were, therefore, necessarily very imperfect as discussions on the real questions at issue between them concerning the Partition of the Lennox and the rights of the respective heirs.—(*Preface* to vol. I., pp. xviii-xix.)

Before rescuing myself in this matter from your hands, I must pause to express both surprise and regret that you should have treated the memory of Mr Riddell with a perfectly gratuitous, and scarcely intelli-

gible, disrespect that is only made more conspicuous by the attempt at facetiousness. I fear it must be so characterised, seeing that the startling ebullition has not escaped you in the course of antiquarian disputation, always exciting, or while impugning Mr Riddell even in a single sentence of controversy. Deigning to give credit to the *facile princeps* of family historians, for "information and original documents," you affect, in a curiously involved specimen of your own powers of lucid composition, to admire him for his "candour," in having (as you judge him), like honest Dogberry, written himself down an ass. Regardless of the respect due to the dead, though, perhaps, not unmindful of that old maxim of security, *mortui non mordent*, you feather a very clumsy shaft with plumage from his own wing. Mr Riddell was a scholar as well as a learned legal antiquary, and he loved to enliven a dry discussion with classical quotations. He was well read in Horace *De Arte Poetica*, and the quotations which you seize upon, and cast at his memory to discredit it, mean this: The Roman poet is inculcating the law that poetical license must not be carried so far as to make use of incongruous images. Even a poet, says Horace, must not, in his imagery, conjoin serpents that inhabit the earth with fowls that inhabit the air, or dolphins of the deep with the denizens of the woods. Mr Riddell, in a vein of pleasantry against himself, uses these quotations *currente calamo*, not in his text or in argument, but at the conclusion of a very few lines of preface to his well known and important volume of "Tracts, Legal and Historical," &c., thereby meaning, not as you misinterpret him, a "candid" confession of inability to make himself intelligible, but solely in reference to the desultory variety of the very different topics brought together in this valuable collection of Tracts. And surely you of all others, Sir, an official "Inspector" of ancient and noble charter-rooms for the discovery of lost or latent history—an occupation in which Mr Riddell, not officially, but *con amore*, was the most persevering and eminently successful historical lawyer that ever brought renown in that line to the Bar of Scotland since the days of Sir David Dalrymple—instead of twisting his classical allusion into a wrong and derogatory sense, should have bowed to his memory, and hung a garland on his tomb. And this I do now,

though many a hard buffet has John Riddell bestowed upon myself, and I upon him, in this same field of fight, fairly stricken and no favour.

When the long and learnedly contested claim, on the part of the Earl of Crawford and Balcarres, for the first and very ancient Dukedom of Montrose, was before the House of Lords, of which claim Mr Riddell was the *primum mobile*, and indeed the mainspring of all its vast historical and legal learning, the present Lord Chief-Justice of England, Sir Alexander Cockburn, then Attorney-General opposing the exceptionally antique claim, paid Mr Riddell a compliment, in presence of the Peers of England, which will stand for ever against all ungenerous attempts to cast ridicule on his memory.

My Lords, this is not a new theory or doctrine on our part. I have before me no mean authority on the subject. One of your Lordships has been pleased to pass a not unmerited compliment upon the learning and the research which have been manifested in getting up the case for the noble claimant. That case has been prepared by a gentleman of the highest learning, research, and authority upon the subject of Scottish peerages. I can say no more, because he sits beside me. He appears here as counsel for the claimant of the dukedom of Montrose. I hold this book in my hand; and allow me, against the authority of the various statements, the quantity of learning spread over the case, and a considerable quantity of statement, perhaps without authority, which is to be found there, and which, if that learned gentleman who prepared it had not been counsel in this case, would be entitled to the highest authority at your Lordships' hands,—allow me, by way of a little set-off against all that, to tell you what he has written on the subject of the Glencairn Peerage. I appeal from the counsel to the author; I appeal from the interested advocate to the disinterested historian. I have before me the second volume of "The Law and Practice in Scottish Peerages," by the very eminent and learned practitioner, Mr Riddell, &c.\*

And now to return to myself, and the severe judgment you have pronounced on my part in this old story of the Lennox.

Perhaps it is something of an honour even to be named in the index, and noticed in the preface, of a book so brilliant that, I verily believe, were a blind man to feel it he would experience the sensation of the sound of a trumpet. In this instance, however, it may be thought that I have about as much to boast of as the ragged urchin who bragged of speech with a king, his majesty having told him to get out of the way.

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\* Report of the speeches of counsel, &c. &c., in the claim of James Earl of Crawford and Balcarres to the original dukedom of Montrose, created in 1488. Printed in 1855.

"Hitherto," you say, "the history of the Lennox has, unhappily, been much obscured by special pleadings, and by ingenious but partial discussions." This preliminary lament you roundly apply to all historians who have preceded you in illustrating the old *quæstio vexata* of the right to the earldom of Lennox. It includes all those family historians whose researches and discoveries, in the course of this century and the last, have gradually cleared, instead of "obscuring," the interesting history of the Lennox and its woes, thereby rendering your own ornamentation of the subject, with such copious materials before you, and such grand backing (would that I had it), a comparatively easy task,—indeed a long-drawn pleasant pastime. But as I, for the first time, had laboriously digested the whole scattered materials into a complete and systematic "History of the Partition of the Lennox," an octavo volume of 178 pages, (including preface), divided into twelve chapters, whose title you borrow, and with whose text you make somewhat free, this serious obstacle required to be shunted out of the way in as few words as possible. Accordingly I am summarily disposed of, and rendered *hors de combat* in the question, by a more particular reference to myself, which I must here repeat :

Mr Napier, in his "Partition of the Lennox," not only fails in the attempt to establish a claim for the Napier family, but even supplies materials which help to set that claim aside. He does injustice to John Lord Darnley, whom he represents as an ambitious usurper ; whereas Darnley, whatever in other respects he may have been, was in this case only prosecuting his rightful claims to the half of the earldom of Lennox, and to the title of the Earl of Lennox, of both of which he was long unjustly deprived.

And so goodbye to me and my book ! But your accusation does not weigh very heavily on my conscience. I never doubted Darnley's right to the half of the Lennox lands. My injustice resolves itself into this, that while I have *proved* that he usurped the honours of Lennox, you have *assumed*, against proof, that he was the rightful heir. And as for the brusque assertion that I have "supplied materials" which "help" to set aside the case I am there maintaining, that, as will presently be seen, rests upon a mistake of your own in translating a Latin word. Meanwhile, however, that the unwary may be at once undeceived as to the nature of the work you would thus extinguish, I shall here copy the

table of contents of the twelve chapters of my History of the Lennox, which you toss into the waste basket of literary reputations, in order to set up a Lennox of your own, which you have written wrong :

CHAPTER I.—Antiquity of the Earldom—Investitures and Limitations—Fate of Albany and Lennox, . . . . .	Page 1
CHAPTER II.—Possession of the Lennox by the Duchess of Albany as Countess of Lennox, . . . . .	13
CHAPTER III.—Of the Heirs of the Investiture after the demise of Isabella of Lennox—Refutation of the Historians who have recorded that the Earldom of Lennox was forfeited in 1425, . . . . .	21
CHAPTER IV.—That Earl Duncan had no Heir-male of his own body—Reply to Mr Hamilton's Case for Woodhead, . . . . .	28
CHAPTER V.—Causes which obstructed the immediate Entry of the Heirs-general of Earl Duncan to their succession in the Lennox after the demise of the Duchess—Liferent Grant of the Lennox to the Chancellor Avondale—Titles made up by the Heirs-general, . . . . .	41
CHAPTER VI.—First attempts of John Lord Dernely to appropriate the honours of Lennox—His irregular service reduced in a Plea with Haldane of Gleneagles—State of the Titles to the Lennox at the close of the Reign of James III., . . . .	54
CHAPTER VII.—History of John Lord Dernely's second usurpation of the honours of Lennox—His Contracts of Excambion with the other Co-heirs—Final partition and settlement of the Fief, . . . . .	66
CHAPTER VIII.—That John Lord Dernely was not Earl of Lennox by virtue of any special grant from the Sovereign, or new constitution of the honours in his favour—Historians and other writers refuted upon this point, . . . . .	82
CHAPTER IX.—Reply to Lord Loughborough's Memorial for Gleneagles—State of the process between Dernely and Gleneagles, . . . . .	91
CHAPTER X.—That John Lord Dernely had no other right to the honours of Lennox than what he obtained through the Contracts of Excambion—Legal effect of those Contracts, . . . . .	106
CHAPTER XI.—Proof that Elizabeth Menteith was elder than Agnes—Reply to Mr Riddell's Discovery for Gleneagles— <i>Messuagium et Manerium</i> , . . . . .	120
CHAPTER XII.—Farther Proof of the Primogeniture of Elizabeth Menteith—Conclusion, . . . . .	150

Your somewhat contemptuous disposal of this History of mine, which truly is the original incentive to your own, and the very foundation of it, leads to another serious criticism, which I must here pause to illustrate before proceeding to redeem the History of the Lennox itself from the cardinal error with which you have overlaid it. While thus publicly

depreciating my "Lennox lucubrations," (as you call Mr Riddell's labours and my own), I perceive that, on more occasions than one, you help your own text out of mine! Moreover, if you happen to find an original historical fact in my pages, or a correction in point of fact of a previous historian, you do not scruple to benefit by the fact, or to adopt the correction, at the same time consigning any merit of my own in the matter to the limbo of silence. These are unpleasant criticisms to which you compel me; and I fear that I would be scarcely justified in making them were I not to verify them by examples. Accordingly I proceed to select a few, in doing which it will be necessary to use italics in order to point out the remarkable coincidences.

In my Lennox you find the following passages, p. 9, and *note* :—

NAPIER. Duke Robert (Albany), whose energetic regency inspired awe if it did not command respect, had been removed by a natural death in 1420, and the country was now in great disorder, &c.

*Every historian of Scotland* has recorded that the Regent Robert died 3d September 1419. I find, however, in the Register of the Great Seal a charter of confirmation by James I., dated at Edinburgh, August 29, 1430, of a charter "*avunculi sui Robertis Ducis Albanie*," which charter of Duke Robert is dated "*apud Falkland, August 4, 1420, an. gub. 15.*" This clears up a difficulty started by Pinkerton, that, in the records, the year 1423 is called *an. gub. 3, of Duke Murdoch*. Pinkerton attempts to explain this by the inference that, although Duke Robert died in 1419, his son Murdoch was not recognised as Regent until 1420.

Now, this new and important historical fact I find quietly adopted in your Lennox, vol. i. page 251, as follows :—

FRASER. On the death of King Robert, predeceased by Rothesay, Albany became Regent of the kingdom during the minority of King James the First and his long captivity in England, and held that office till his death on 3d September 1420, at the advanced age of eighty-one years.

You are here quite accurate as to the date of Albany's death; but where did you get it? Why, in my Lennox. "That's my thunder." I have the highest authority for saying so. My old foeman, John Riddell, who deemed me not unworthy of his steel, in the midst of all the fierceness with which he was attacking me, in some other genealogical matters, paused to pay me this compliment, with which he salved

my wounds :—"The enthusiasm and ardent zeal of Mr Napier are no bad condiments for an antiquary, and, combined with his other qualifications, may render him a successful cultivator in the vineyard of antiquities. He instructs an *important and original fact*, in reference to the duration of the regency of Robert Duke of Albany, at p. 9 of his last work."—(*Riddell's Answer to the Author of "History of the Partition of the Lennox,"* 1835, p. 93.)

I shall here give a still stronger example of the same sort of ungrateful adoption. You find the following passages in my Lennox, page 24, which I had previously published in my Life of Merchiston :—

The historians of Scotland have only added to the doubts and confusion regarding the history of the Lennox, by asserting that it *was forfeited* in the person of Earl Duncan,—a most *extraordinary* assertion, considering the many facts and records that disprove it. Dr Robertson tells us that Earl Duncan, beheaded by James I., was forfeited, and his possessions *annexed to the Crown*. Mr Tytler, in his excellent History of Scotland, still in course of publication, has adopted the error of Dr Robertson. "These executions," says he, "were followed by the *forfeiture to the Crown* of the immense estates belonging to the family of Albany, and to the *Earl of Lennox*; a seasonable supply of revenue," &c. No authority is quoted by our historians in support of their assertion. NAPIER.

In your Lennox I find your adoption of the above taking this shape, p. 257, and note :—

The vast estates of Albany were forfeited, and annexed to the Crown; but, what is *surprising*, and not easy to be explained, *in an age when the Crown was sufficiently inclined to aggrandise itself by its rapacity on the nobles*, the estates of the Earl of Lennox were not forfeited. FRASER.

Now, in the first place, that paragraph is borrowed from me, p. 13 :—

A *curious* feature in the mysterious fate of the old Earl of Lennox is, that, though condemned and executed for some alleged high crime and misdemeanour, *his fief incurred no forfeiture even at a time when the Crown was eager to aggrandise itself at the expense of the nobles*. NAPIER.

You then proceed to deal with my correction of Robertson and Tytler, and after a fashion still more reprehensible :—

Dr Robertson, in his History of Scotland, says that Earl Duncan was forfeited, and his possessions annexed to the Crown. Mr Tytler, in his first edition of the History of Scotland, fell into the same error, but *he corrected it in subsequent editions*. FRASER.



Now let me ask, to what *editions* do you allude? Mr Tytler, in his *second* (iii. 195), repeats the error of his first, *ipsissimis verbis*. My corrections of it had escaped him. In his *third* edition, however, having discovered the proofs in my previous work, he immediately altered that page of his History (iii. 76), and, with the fairness so characteristic of him, he adds this foot-note:—"In my former edition I had been misled into a belief that these estates were forfeited to the Crown. *I owe the correction of this error to Mr Napier.*—Life of Napier of Merchiston, Appendix, p. 525." Was it fair, for the sake of ignoring me, to assign to Mr Tytler the fact of this correction, which that distinguished historian himself so pointedly assigns to me when amending his own page, being the very correction to which you refer?

Then, even, as regards the structure of your paragraphs, I find you handling the same facts in nearly the same words,—in short, weaving your web from my loom,—a harmless species of literary conveyancing, but which was scarcely to be expected from a historian who invites his readers to cast me aside altogether as a chronicler who, from lack of new materials which he professes to have produced, has only "obscured" the illustrious subject, and furnished proofs against himself!

For instance, in my Lennox you find the following passage, page 10:—

NAPIER. *The same day on which the Regent was arrested, Isabella, his Duchess, was seized in their palace of Doune in Menteith, carried to Dunbar, and afterwards imprisoned in the castle of Tantallon. James Stewart, their third son, alone of all his family effected an escape. This daring youth made, on the instant, one desperate effort to succour his family, or avenge their fall. With a body of armed followers, he carried fire and sword into the town of Dunbarton, and put to death the King's uncle, John Stewart (called the Red Stewart of Dundonald), with thirty-two others of inferior note. But this struggle was unavailing. The King pursued James of Albany with such determined animosity that he was compelled to fly, with his abettor the Bishop of Argyle, to Ireland, whence he never returned.*

Now, in your Lennox, p. 255, I find the same passage, scarcely disguised:—

FRASER. *The Duchess Isabella, the same day on which her husband was made a prisoner, was seized in their castle of Doune, in Menteith, carried to Dunbar, and afterwards imprisoned in Tantallon Castle, in East Lothian. James Stewart, the second [third] son of Albany, escaped arrest. Driven to desperation, and hoping to prevent the entire ruin of his family, or at*

least to avenge the injuries done to them, he collected a *band of armed retainers*, with whom he sacked the town of Dumbarton, and reduced it to ashes, *the King's uncle*, Sir John Stewart of Dundonald, governor of the castle of Dumbarton, *being killed* at the same time. James Stewart then fled to Ireland, &c.

Again, in my Lennox, pp. 10, 11, and *note*, the following passages occur:—

Soon afterwards, in a Parliament where *the King presided in person*, on the 24th May 1425, Walter Stewart of the Lennox was tried by his peers, convicted, and *instantly beheaded*. To those who ask of what crime this young nobleman was convicted, no other reply can be given than what is afforded by a solitary expression of a single *chronicler*. In one manuscript of the *Scotichronicon* (Cupar MS.), the writer of which is supposed to have lived at the period, it is recorded that Walter Stewart was "a man of princely stature and lovely person, most eloquent and wise, most agreeable and universally beloved, and having been convicted by an assize *de roborea*, was beheaded in front of the castle. Not only was his death deplored by those who knew him, but by those who had never seen him, for they were enamoured of his fame."

Under the circumstances, *de roborea* can scarcely mean "of robbery" in a common or vulgar acceptance. It may have referred to the *ambitious appropriation or spoliation of Crown lands* by the Albany family; or, more probably, to the recent attack upon Dunbarton, in which the King's uncle was killed.

I have been quite unable to perceive any essential difference, in facts or phraseology, between the above page of mine and the following of yours, p. 255-6:—

Walter Stewart, eldest son of Murdoch Duke of Albany, was the first who was brought to trial. On 24th May 1425, in the palace of Stirling, a Court was held for his trial before a jury, composed of the principal nobles and barons of the kingdom, among whom were seven of the twenty-six who, by order of the King, had been arrested when Albany and his sons were made prisoners. The Court was *presided over by the King in person*, as if with the design of overawing the jury, and preventing them from acquitting those to whom he attributed his protracted captivity in England, and the misgovernment of the kingdom during that period. No record of the trial has been preserved. An ancient *chronicler* (*Scotichronicon* MS.) says that the crime of Walter was that "*de roboria*," which *could not have been robbery in the ordinary sense, but may have been the appropriation or spoliation of the Crown lands*. He was found guilty, and was immediately conducted from the Court to an eminence in front of the castle, significantly called Heading Hill, where he was beheaded.

Allow me to adduce another instance from the same tragic history. You find in my Lennox the following passages, pp. 11, 12:—

On the following day his brother Alexander, whom the same ancient *chronicler* declares to have been no ways inferior to Walter in personal attractions, and that both were of *gigantic stature*, shared a like fate, &c.

Alexander Stewart did not suffer that day alone. His father, Duke Murdoch, and the aged Earl Duncan, ascended a scaffold upon which the blood of Walter, the beautiful heir of Albany and Lennox, was scarcely dry. "They were executed,"—says one whose genius could not fail to pause upon, and picture the catastrophe,—“on the castle hill of Stirling, upon the little artificial mound called Harley Hacket. From this elevated position Duke Murdoch might cast his last look upon the fertile and romantic territory of Menteith, which formed part of his family estates, and distinguish in the distance the stately castle of Doune, which emulated the magnificence of palaces, and had been his own vice-regal residence.”—(*Sir Walter Scott's History of Scotland.*)

Plausible reasons have been assigned for James I. having so suddenly visited the house of Albany with utter ruin; but why his vengeance fell with a like severity upon Earl Duncan, now in his eightieth year, is a problem not to be solved by the scanty records of the times, &c.

Is this sad tragedy either differently or better told in your history of the Lennox, as I find it in your first volume, p. 256?

FRASER. On the following day, the Duke of Albany, Alexander, another of his sons, and Duncan Earl of Lennox, were in like manner tried and found guilty. They were immediately led forth, and executed at the same place. "From this elevated position," says *Sir Walter Scott*, "Duke Murdoch might cast his last look upon the fertile and romantic territory of Menteith, which formed part of his family estates, and distinguish in the distance the stately castle of Doune, which emulated the magnificence of palaces, and had been his own vice-regal residence."—(*Sir Walter Scott's History of Scotland.*) These hasty and ruthless executions excited among the people universal compassion. The almost *gigantic stature* of Albany and his sons, with their noble appearance and bearing, contributed to produce the admiration which mingled with the people's sympathy. The venerable aspect and grey hairs of Duncan Earl of Lennox, who was then in his eightieth year, &c.

In like manner you follow me very closely in your memoir of the bereaved and desolate Duchess of Albany and Countess of Lennox, both in describing her demeanour and disposition under such crushing calamities, and also as to how she reigned over her great earldom, and exercised all her rights of seigniority, dwelling for the rest of her life in her castle of Inchmuryne, on Lochlomond. In your Preface, p. xvii., you parade the information that "a full memoir of the Duchess is given." But you have added nothing whatever to my own memoir of the illustrious widow. Indeed, yours would have been much better had you taken a little more from my text than you have done. The marginal references suffice to prove our pages coparceners, the privilege of *primogeniture* belonging to mine.

I shall here quote from pp. 14 to 18 of my own account of the Duchess-Countess :—

And first, of the possession held by the Duchess after her father's execution.

NAPIER.

It is said, that when the *exasperated monarch* had *wreaked his vengeance on Albany and Lennox* he sent to this unhappy lady (who was by marriage nearly related to himself) the bleeding heads of those dearest to her, in order to try if *the distraction of her grief* would cause her to *divulge secrets*; and that the Duchess endured the spectacle without allowing *other words to pass her lips* than these, "If they were guilty, the King has acted wisely, and done justice." But this story, narrated by *Buchanan*, is scarcely to be credited of James I., who, though hasty and passionate, possessed *an intellect too refined* to be capable of the act of a *savage*. *Isabella experienced some rigorous treatment when the storm that destroyed her family first arose*, but there can be no question that she was eventually permitted to assume and enjoy the honours and territory of the Lennox.

Buchanan's story.

Rigorous treatment of the Duchess.

She is said to have been *reserved and lofty in her demeanour, possessing a strong mind, a calm and indomitable spirit*; and no lady of ancient or modern times ever stood more in need of such attributes to *sustain her under sudden and violent calamities*, &c.

Her character.

There is a melancholy interest pervading the widowhood of Isabella, Duchess of Albany and Countess of Lennox, which makes us regret that so little is known of her habits and occupations during the long years of her retirement, in her feudal castle on the island of Lochlomond, after her succession to the earldom. Though bearing, with punctilious ceremony, those high titles of Albany and Lennox—lately all powerful in the realm, but now scarcely to be whispered to the breezes of Lochlomond—though possessing the broad and fair domains gemmed by that beautiful lake, she was widowed and childless in the silent halls of Inchmurne, and haunted with the recollection that, by the hands of the common executioner, her race were extinguished,—that her *young giants* would not return at her call

Her residence on Lochlomond.

"To renew the wild pomp of the chase and the hall."

Whether Isabella was immediately released after the catastrophe of her family, or *how long she was kept under restraint*, I have not been able to ascertain. This is certain, however, that there was no legal bar to her completing titles in feudal form to the earldom, though she failed to do so, for in the *retours* of all her representatives in the Lennox, to be afterwards more particularly noticed, the lands are declared to have been in non-entry from the year 1425, when *Earl Duncan* was beheaded, thereby indicating that the sovereign, during all that time, had no other right to the *Comitatus* than what arose from that feudal incident. There is a curious and interesting item in the *Great Chamberlain's* accounts, in reference to the Duchess. In a roll of the reign of James II. between the dates 16th July 1455 and 7th October 1456, it is stated that a precept of *seisin* had issued from Chancery to infest the heir in certain lands of the earldom, that relief duty had in consequence been paid, but that the precept remained unexecuted, and the heir unentered, and that the old Countess of Lennox continued to reap the fruits, and not the King (as in strict feudal form, under such circumstances, he might have done), upon which state of matters, it is noted, the King himself was to be consulted.\*

Period of her restraint uncertain.

State of her feudal titles. Her lands in non-entry.

Special case in which the King was to be consulted.

\* Great Chamberlain Roll, Register House, from 16th July 1455 to 7th October 1456.—"Et de relevio terrarum quarte partis de Glorate in qua hæres nondum intravit licet litere sasine de eisdem de Cancellaria  
Notes to Napier's Lennox.

## NAPIER.

Reference to unexplored charter-chests.

Various grants by the Duchess, and their dates.

From this it appears that *Isabella outlived James I. for about twenty years.*

Probably there are charters of the Duchess, indicating her *possession of the Lennox before the death of James I., lurking in unexplored charter-chests.* The oldest that *I am aware of* proves her to have been living at her principal messuage, on the island of Inchmuryne in Lochlomond, very early in the succeeding minority. The following grants are all dated from that place.

About the beginning of the year 1440 the Duchess granted a charter to one Donald Patrick of a tenement of houses and yard adjoining, situated on the north side of the church-yard of Drymen, with a croft of land, &c. ; the said Donald and his successors being obliged to furnish stable room for the Duchess and her successors' horses so oft as they came to Drymen, and to furnish lodging and fire for poor people, the same as ordained by former Earls of Lennox.\* In 1444, "*Isabella Duchissa Albanie, ac Comitissa de Levenax,*" confirms, with the air of a feudal princess, a charter of the lands of Ballegrochyr to Donald, the natural son of her father, as a vassal of her fief.† In 1449 a precept of seisin issues from "*Isabel Duches of Albany and Countess of the Levenax, till Jon Lyndsay, mare of the Levenax, greting,*" to infest Thomas Spreule in the lands of Dalchorne and Dalmure; and concluding, "*giffe him sesing,*" &c. "*in our name, haldand thir letters for your warande; witnes myself under my signet at Inchmoryn, the 19th day of February 1449.*"‡ In 1450 she founded the collegiate church of Dunbarton, and gifted it with various lands of the earldom.§

Now, let me challenge a comparison of the above History with your own, in the relative pages 265 to 273 :—

## FRASER.

The Duchess's character.

Buchanan's story.

Naturally of a strong mind, a reserved disposition, and dignified demeanour, Lady Isabella bore with much equanimity the sudden and crushing calamities which befel her house. Buchanan has recorded that the incensed monarch, after he had avenged himself on the houses of Albany and Lennox, sent to her the bloody heads of her different relatives, in the hope that in the overwhelming agony of grief she might divulge secrets by which he might vindicate his own conduct. But the only words she uttered at the spectacle were, *that if they were guilty the king had acted wisely, and had done justice.* One would fain hope that this was too savage an action to be attributed to James, who, though resentful, was a man of a refined mind, &c.

Rigorous treatment of the Duchess. Period of her restraint uncertain. State of her feudal titles.

The Duchess-Countess Isabella met with rigorous treatment when the storm burst over the heads of the devoted family. How long she remained imprisoned is uncertain, &c.

Though Isabella was allowed to take possession of the earldom of Lennox, no feudal title appears to have been made by her under the regulating charter of the earldom, which provided that it should be inherited by heirs-female, in the event of the failing of heirs-male of

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*emanaverint, vi. viii. quorum terrarum firmas antiqua Comitissa de Lenax percipit, et de eisdem, et non rex, continuatur.* On the margin, "*super quo consulendus est rex.*" The lands of Glorat were a part of the Lennox.

\* Case for Woodhead, p. 51, and authorities there quoted. This charter is witnessed, among others, by Andrew Stewart of Albany, afterwards Lord Avandale, the natural grandson of the Duchess.

† Ditto.

‡ Original, *penes* Smollet of Bonhill.

§ Case for Woodhead.

Earl Duncan ; *for in the retour* of John Lord Darnley as heir of his great-grandfather Duncan Earl of Lennox to the one-half of the earldom and to the principal messuage, it is expressly stated that the Lennox estates had remained in the *hands of the king forty-eight years*, in consequence of the *non-entry* of any heir since the death of Earl Duncan in the 1425. From this it is evident that during all that time they did not form part of the Crown lands, &c.

FRASER.

Her lands in non-entry.

At her island castle of Inchmurrin, in Lochlomond, she continued to exercise her feudal rights as Countess of Lennox, by granting charters to her vassals, *though no charters of hers of that description before the death of King James the First have come under our notice, but such charters may still exist in unexplored repositories.* During the reign of James the Second numerous charters were granted by her, in the years 1440, 1444, 1449, and 1451, dated at Inchmurrin, &c.

Residence on Lochlomond.

Her grants, and their dates.

The Duchess was alive in 1456, as appears from one of the *Chamberlain's accounts*, from 16th July 1455 to 7th October 1456, which records that a precept of sasine which had been issued from Chancery for infefting the heir of the *lands of Glorat* in the earldom of Lennox had not been executed and the heir entered, though the *relief duty had been paid ; and that the old Countess of Lennox continued to receive the farms* of these lands, and not the King, *in regard to which his Majesty was to be consulted.*

Special case in which the King was to be consulted.

But enough of this sort of criticism. I must now meet you on the main question. Was Lord Dernely heir-general of Duncan Earl of Lennox, to the exclusion, by right of primogeniture, of all other competitors for the honours of that great fief? That he was so is your case. Indeed it is the only question of interest or importance your two quartos have raised, or rather revived, and that without adding a single item of new proof changing the aspect of the old question. This I say advisedly, in reply to that curious paragraph of apology you are so considerate as to afford myself and the memory of Mr Riddell, after treating us both *de haut en bas* :—

The Lennox lucubrations, both of Mr Riddell and Mr Napier, were issued by them without having had access to the large collection of Lennox charters, now printed in these volumes for the first time. The works of these two learned authors were, therefore, necessarily very imperfect as discussions on the real questions at issue between them concerning the partition of the Lennox, and the rights of the respective co-heirs.—(*Preface*, p. xix.)

To which it may be still further replied, that the access to this valuable repository of historical materials was ever as freely and fully open to your present correspondent as to yourself, and certainly has been used by him to as good purpose in the cause of history. And as for your ponderous quarto of Lennox charters printed *in extenso*, I have travelled

from their Dan to their Beersheba, and am so far prepared to say "all is barren," that, as previously stated, I have not found one charter, containing a single historical fact of any importance or real historical interest, the *marrow* of which has not been already extracted, or which sheds any new light upon, or changes the aspect of, previous "discussions on the real questions at issue, concerning the partition of the Lennox, and the rights of the respective co-heirs."

But to proceed. If you really could have proved for Dernely the case which you assume, chiding me, moreover, for committing the "injustice" of maintaining the contrary, then, indeed, all who have written on the subject in former years have laboured in vain. But, on the other hand, if you have not proved your case, the palatian edifice you have reared upon that unstable foundation collapses like a house of cards. Your case for the usurping nobleman of course postpones what has of late years been considered the only remaining question at issue regarding the right to the ancient earldom of Lennox; whether, namely, Lord Napier, as representing his lineal ancestress *Elizabeth Menteith*, co-heiress of Lennox and also of Rusky in Menteith, or the family of Haldane of Gleneagles, as representing her only sister and co-heiress *Agnes Menteith*, had right, by primogeniture, to the earldom in question. You have as it were knocked the heads of these old combatants together, by postponing both their claims to that for the royal line of Dernely. And is there not here something curiously out of joint and inconsistent in your own position as a family historian? The avowed object and excuse for this Lennox adventure of yours is to *Haldanise* and *Gleneagle Auchencruive*, even to the extent of negotiating armorial bearings for the latter, exhibiting the strange anomaly of the illustrious eagles of Lennox attached as supporters to the shield of a modern descent, through females, from a *second son* of Gleneagles, while at the same time your argument would deprive that family of the proudest feather in their bonnet, the right, namely, to claim the ancient earldom of the district to which they belong! But the *quæstio vexata* between Napier and Gleneagles does not properly fall within the purview of "The Lennox, by William Fraser." Neither is it the purpose of this Epistolary Review of it to re-open a discussion irrelevant to

the issue you have raised. We must first dispose of *you*. Mr Fraser's gold coach stops the way. For truly, if the question as to the Lennox honours is to be decided as you assume, if Dernely really took those honours by right of heritable succession and primogeniture, and eventually held and transmitted them on that footing alone, the laboriously discussed, but never judicially tried, question between Napier and Gleneagles should not have arisen. Nevertheless, you do take it upon you, by a gratuitous passing hit at me, to decide, and in a single peremptory word, against the claim for Napier. "Mr Napier," you say, "not only fails in his attempt to establish a claim for the Napier family, but even supplies materials which help to set that claim aside."—(*Preface*, p. xviii.) What *help* do you require, if you have the right sow by the ear in Dernely? But as to the help you speak of, more of that anon. I may here remind you, however, that a claim which has never been tried cannot be said to have failed; unless, indeed, you are a Committee of Privileges as well as an "Inspector for Scotland." The claim for Napier has no more failed than that for Gleneagles. No doubt it was very keenly controverted, on the sole question of the proof of primogeniture, by a far more formidable opponent than yourself, Mr Riddell to wit. But the result of the disputation was simply this, that such a balance of conflicting evidence, *in re antiquissima*, was brought to bear upon the question, that, were the case before the House of Lords in its present shape, it would be at a dead lock, the consequence of which is obvious enough. Both parties, accordingly, have the good sense not to stir it, *hoc statu*, in the proper quarter. And neither party, I may venture to add, when they do revive it, will be influenced by your *ipse dixit* on the subject.

*The Dramatis Personæ in the History of the Partition of the Lennox.*

Before tracing the progress of Dernely's persistent and eventually successful usurpation of the honours of Lennox, I may here, for the sake of distinctness, give some account of the *dramatis personæ* in the long



delayed partition among co-heiresses, of that extensive and beautiful district of Scotland, the Lennox.

1. ISABELLA of LENNOX, succeeded her unfortunate father, Earl Duncan, in 1425, as the senior or eldest of his three daughters and co-heiresses ; the junior, or younger, being named MARGARET, and the youngest or *minima natu*, ELIZABETH.

In the year 1390, Robert Stewart, Earl of Menteith and Fife, a younger brother of King Robert III., whose reign then commenced, was the most potent nobleman in Scotland, and, through the indolent temper and weakness of the monarch, was suffered to hold the governorship of the realm. In 1391, the old Earl of Lennox, who had been left a widower with these three daughters, and no other legitimate issue, became a party, along with this Earl of Menteith and Fife, to an elaborate and curious contract of marriage, between his eldest daughter, Isabella, and Sir Murdoch Stewart, who was the Regent's eldest son, and the King's nephew. This contract, which is very long and complicated, was printed, retaining the ancient orthography, by Mr Hamilton, in his very learned but mistaken *Case for Woodhead*. I published it, in modern orthography, in my *History of the Lennox*, and need not repeat it here.\*

Upon the 8th of November 1392 King Robert III. granted a charter to Earl Duncan of the whole earldom of Lennox. This charter proceeded upon his resignation in terms of the above contract, or "indenture" as it was called, containing the limitations then agreed to, which became the ruling investiture. There is no question as to the ruling investiture and limitations of the Lennox and its honours. The royal charter to "Duncan Earl of the Levenax," is recorded under the great seal of Robert III., and the words of limitation are :—"To the said Duncan and the heirs-male of his body, whom failing, to Murdoch Stewart, our dearest cousin, and Isabella, daughter of the said Earl, and the longest liver, and the heirs lawfully begotten between them ; whom failing, to the nearest legitimate heirs of the said Duncan, whomsoever."

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\* See my *History of the Lennox*, pp. 4 to 7.

The Duchess was alive in 1456, as appears from the Great Chamberlain's accounts, already referred to. But in the same roll, and in an account ending 25th June 1460, an entry appears bearing that the Chamberlain does not debit himself with the revenue derived from the earldom of Lennox, because the King had assigned the same for building the Castle of Stirling. Isabella had died, in all probability, about the year 1460; for in this year it was that Lord Dernely first took any step to obtain his service as one of the heirs-general of Earl Duncan. Her sad fate in life, and the fate of her father, her husband, and all their offspring, are matters of notorious and tragical history, of which no more need be narrated here.

2. MARGARET of LENNOX, the second of Earl Duncan's three daughters, was married to Robert Menteith of Rusky, head of an illustrious baronial family in the Menteith, an alliance which was arranged at the period of her sister Isabella's marriage. Robert of Rusky was the son of Sir Alexander, who was the son of Sir Walter, who was the son of Sir John de Menteith, falsely accused in History of having betrayed Sir William Wallace.\* This Sir John, head of the house of Rusky, was son of Walter Earl of Menteith, third son of Walter, High Steward of Scotland.

Lady Margaret of Lennox's husband died before 1451. Their eldest son, Murdoch Menteith, was put to death by his own servant, near Dunblane.† So Lady Margaret had her sorrows too. This Murdoch married Christian, daughter of Sir David Murray of Tullibardine, ancestor of the Dukes of Athol. They had an only son, Patrick Menteith, whose early death very soon after his father's, and prior to the year 1455, left the magnificent heirship of his house, which combined one-half of the lands of the Lennox (involving the *de jure* right to its honours), with great baronies in Menteith belonging to that earldom, to be inherited by his two young sisters, *Elizabeth and Agnes Menteith*. Postponing, meanwhile, further notice of these two interesting minors, I proceed to note the marriage of

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\* See this subject critically examined and discussed in the Appendix to my "Memoirs of Merchiston," pp. 527-34.

† Macfarlane's MS., Advocates' Library.

*Elizabeth of the Lennox*, Earl Duncan's youngest daughter, whom you have shuffled out of her proper place for the benefit of the usurper Dernely.

3. ELIZABETH of LENNOX, the youngest daughter of Earl Duncan, was married, also about the period of Isabella's contract, to Sir John Stewart, son and heir of Sir Alexander Stewart of Dernely, from whom he inherited great possessions in different parts of Scotland. Sir Alexander died about the year 1403, and his son, Sir John, went to France in the year 1420, to the assistance of Charles VII., then Dauphin. In those foreign wars he became greatly distinguished, acquired the high titles of Seigneur d'Aubigny and Count d'Evreux, and was killed at the siege of Orleans, where he brought defeat upon his party by the excess of his valour. Sir Alan Stewart succeeded him, being the eldest son of his marriage with *Elizabeth of Lennox*. In the year 1439, Sir Alan was treacherously slain by Sir Thomas Boyd of Kilmarnock. So, Elizabeth of Lennox had her sorrows likewise. He was succeeded by his eldest son, Sir John Stewart, who succeeded to his grandmother Elizabeth, Earl Duncan's youngest daughter, as heir to the extent of one-half of the Lennox, and eventually secured the whole to himself by means which remain to be illustrated. This nobleman, the most prominent figure among the *dramatis personæ* in hand, married, in 1438, the year before his father's death, Margaret, daughter of Sir Alexander Montgomery of Ardrossan, and he was created Lord Dernely about the time, or soon after, the death of his grand-aunt, Duchess Isabella.

Thus there were various parties entitled to the character of heirs-general of Earl Duncan, when this great *Comitatus* opened to that remainder by the death of the Duchess, in or about the year 1460. In that character both of her sisters, *Margaret* and *Elizabeth*, were co-heiresses of Earl Duncan, and, had they survived Isabella, would have been entitled *de jure* to divide the fief, and the eldest to take the impartible honours. As it was, Margaret's share became divisible between her two grand-daughters, *Elizabeth* and *Agnes* Menteiths of Rusky, and the other half of the Lennox fell to John Lord Dernely, the history of whose usurpation I shall now proceed to narrate.

*History of Dernely's first attempt to usurp the whole of the Lennox,  
and how it failed.*

John Lord Dernely, an able, ambitious, and turbulent nobleman, could not fail to prove a very dangerous co-heir for the two young ladies of Rusky. From an early period he was bent upon acquiring, *per fas aut nefas*, the whole Lennox to himself, along with its ancient earldom. We find, accordingly, that he at first endeavoured to obtain the object of his desire in a sinister manner, which he had nearly accomplished, and which failed eventually not from any opposition on the part of the Crown, as if it were a forfeited fief, but from the illegal nature of the pretension itself, and the glaringly irregular manner in which he attempted to make it good. It must be kept in mind that the state of the times was most unfavourable for a legal division among co-heiresses of the wide domains of this great earldom. There never was a period when justice was more feeble, or when the laws, especially of succession, were more liable to be violently infringed, than when the earldom of Lennox opened to these co-heiresses. The year 1460 was that in which James II. was accidentally killed at the siege of Roxburgh. His successor was a child, whose natural guardian was a woman; and it is well known that the whole country became more than ever a prey to lawless struggles for power, depending for success either upon the actual custody of the young King's person, or upon vast territorial influence. This was not the most favourable opportunity for a co-heiress to claim, in right of primogeniture, the *caput comitatus* of the most desirable earldom in Scotland, while at the same time its princely territory was divisible among three co-parceners. Now, of these Lord Dernely, who only represented the youngest of the three daughters of Earl Duncan, enjoyed a great advantage, both from his sex and being already a power in the state, over the two young ladies Menteith, although they represented that daughter of Earl Duncan who stood next in birth to Duchess Isabella, the senior of the three. Lord Dernely could not only claim the very same degree of relationship to Earl Duncan that the others could, but he

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had right to a double share of the fief, which aided him greatly in his struggle to usurp the whole, and more especially the impartible honours.

But, it may be asked, why, under these circumstances, did not this extensive and wealthy earldom immediately fall a prey to that desire of aggrandizing the Crown, which at the very time operated so tyrannically against the earldom of Mar? The answer will be found in the history of another individual, who became deeply interested in the possession of the Lennox, and who reared the first great obstacle, not merely to the usurping designs of Dernely, but even to any one of the Lennox coparceners entering in terms of law upon their just rights. James Stewart of Albany, the only one of all the sons of Duke Murdoch of Albany and Isabella of Lennox who escaped the scaffold, had done so by a timeous flight to Ireland. This expatriated scion of Albany and Lennox left seven illegitimate sons, of whom ANDREW STEWART was the eldest. His name occurs, along with some of his brothers, as witness to a charter granted by the Duchess when residing at Inchmuryne. They were all probably reared under the care of their grandmother. This youth must have held a distinguished place in times when the feeling against illegitimacy was by no means in proportion to the strictness of the law of succession against it. He, too, stood precisely in the same degree of relationship, barring the bend sinister, to Earl Duncan as did the ladies of Rusky and Lord Dernely. Moreover, had he been legitimate, he would have been heir-male of the marriage between Isabella and Duke Murdoch, and have excluded all the coparceners. That he and his brothers were illegitimate, however, was never disputed. The very charter of their grandmother, which we find these youths witnessing at Inchmuryne, was granted by her expressly "with the consent and assent" of her *junior sister Margaret*, as *eldest* co-heiress of the Lennox in succession to the Duchess herself. Of this very important document I shall have more to say in the sequel. But Andrew Stewart was nevertheless reared with the same distinction as if the flaw in his scutcheon had not excluded him from the fief. His youthful years, spent on Lochlomond, must have familiarised him with the Lennox, and the Lennox with him; and his subsequent education was calculated to make him for-

get that he had no right to look to the possession. James II., touched perhaps with some regrets for the terrible ruin which his father had brought upon that family, honoured this illegitimate scion of Albany and Lennox with marks of regard and affection, placed him at one of the English universities, and, when his education was completed, appointed him a Gentleman of his Bedchamber, and bestowed upon him the honour of knighthood. Not long afterwards he gifted him with the barony of Avandale, or Evandale (forfeited by the Earl of Douglas in 1455), and in 1457 we find Andrew Stewart of Albany styled Lord Avandale. He now rapidly rose to the highest distinctions that could be conferred upon him. Before the 1st of March 1459 he had superseded George fourth Earl of Angus in the responsible office of Warden of the Marches; and in 1460, about the period of his grandmother's death, he held the loftiest situation in the realm. Upon the sudden accession of the young James III. in that year, he was chosen Lord Chancellor of Scotland, and the conduct of government under a new minority, and the charge of a distracted kingdom, were then committed to his acknowledged talents.

It was natural, considering his birth and education, and the temper of the times, that Lord Avandale should cast a longing eye to the possession of the Lennox; and it was easy for him, considering his sway in the kingdom, and his command of the Chancery, to obstruct the legitimate heirs of his house in taking up their lawful inheritance. At the very commencement of the reign of an infant king, the order and justice contemplated by James I. when he established the Chancery for the issuing of *briefes*, were not likely to receive full effect from a Chancellor whose interest it happened to be to withhold them. Here, then, was the grand obstacle in the way of all the heirs-general of Earl Duncan establishing their right of succession immediately after the death of the Duchess Isabella. In order fully to understand and appreciate Lord Dernely's nimious proceedings under these circumstances, it is necessary here to refer to the forms of process by which at this time all the co-heirs of Earl Duncan were *de jure* entitled to establish their feudal rights.

Prior to the erection in Scotland of the College of Justice, in 1532, *briefes* came in place of all summonses before the ordinary Courts. This

was an instrument issuing from the Chancery, and directed to the Judge Ordinary, ordaining, in the name of the King, that the matter set forth in the brieve was to be tried by a jury of sworn men, or inquest. This brieve might either be simply declaratory of the status or right of the party obtaining it; or, on the other hand, it might conclude specially for something affecting the rights of others. In the former case it was a brieve *retourable*, but *not pleadable*; and it was only necessary to publish it at the head burgh of the jurisdiction without citation of any defenders; and the verdict of the inquest was returned, or *retoured*, to the Chancery by the Judge to whom the brieve had been directed. In the latter case it was a brieve *pleadable*, and *not retourable*, because a defender, or defenders, had to be specially cited, and the brieve became the ground of a proper action before the competent Judge, who pronounced in terms of the verdict of the jury, and made no return to Chancery.

One of the most important pleadable brieves was that for the division of lands among heirs-portioners, of which the case we are now dealing with affords a very pregnant example, involving enormous property, and the highest impartible honours.

Now, all of these co-heiresses, or their representatives, were entitled to the character of heirs-general of Earl Duncan, their great-grandfather, and common ancestor. Consequently, none of them required to be specially called in defence against a *simple brieve of inquest* at the instance of any one of them. They might all and each establish feudally their common character of heirs-general to Earl Duncan in the Lennox, without affecting the correlative rights. But the case was otherwise in any attempt to apportion the lands among them, or if any one of them desired to obtain decree, in his or her favour, to any particular share of the fief. According to the territorial principle, which certainly then prevailed in Scotland as regards titles of honour, the legal mode of taking up such a dignity as the earldom of Lennox, under the circumstances above stated, was to become feudally invested with the *caput comitatus*, or principal portion of the fief, including the chief mansion, or *messuage* as it was called. According to another indisputable principle of the law of Scotland, titles of honour were indivisible rights, which, in the case of co-heiresses were

regulated by the law of primogeniture, and belonged *de jure* to the eldest female, or her representative. Consequently, in a process of division of the lands, the eldest co-heiress alone was entitled to claim that portion which included the *messuage*; and this was a claim which could only be made effectual under *pleadable brieves of division*, to which all the parties required to be specially summoned to appear for their interests. Let us see, then, what was the course pursued by Lord Dernely under this state of the facts and the law. Was it consistent with the position of the true heir, or the pretensions of a usurper?

The first move for redress against the avaricious grasp of the Chancellor was made, as might be anticipated, by the youngest branch of the representation, because that happened to be the most powerful. In 1460, soon after the death of Duchess Isabella, Lord Dernely took instruments on requiring the Lord Chancellor to issue brieves to serve him heir in one-half of the Lennox. No such, however, were issued at this time, or for long after, either in favour of Dernely or any other of the coparceners. Avandale coveted the Lennox for himself. Failing in this legitimate endeavour, Dernely next had recourse to the statutory remedy of complaint to the King (James III.) and Parliament, whom he addressed in a petition praying to have "conusabill brieves, &c. tuiching the lands of half the earldom of Levanax; of the quhilk as yit I can git na expedicione nor outread, &c. And that ye mak, na ger mak, na stoping to me in the serving of thame, sua that I may be servit in als far as affers. For the quhilk to be done to me, I profir to hald a hunder spers, and a hunder bowis, dewlie bodin for a yere on myne awin expensis, in quhat part of this realm that ye will charge me in resisting of your rebills and enemys whatsumever thai be."\*

Several facts important to the present inquiry are proved by the tenor even of this petition and complaint. *First*, that the succession was capable of being taken up by service, and consequently had not been annexed to the Crown by forfeiture. *Secondly*, that at this time Lord Dernely put forth no pretension beyond his right to the half of the lands,

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\* Hamilton's Case for Woodhead, quoting from original deed among the Montrose archives.



and did not claim the chief messuage. *Thirdly*, that he was obstructed by the Chancellor in getting the brieves he demanded, and found it necessary to condescend to make *special offers of military service to overcome the impediment*, a bribe which the young ladies Menteith were not so able to offer. Powerful as he was, however, this nobleman could not effect an entry to his lands in the Lennox until ten years had elapsed from the date of this petition; and if he could not, far less could either of the co-heiresses of Rusky, though married to gentlemen of high character and consideration in the state. The mystery of this apparently inaccessible *hæreditas jacens* seems to be fully explained by the circumstances attending a *liferent grant of the whole Lennox*, which Avandale at length managed to secure to himself in the year 1471.

After the death of the Duchess Isabella, and Dernely's first attempts to be served, state matters of importance, in which the Chancellor took a lead, probably interrupted his views upon this fief. Several foreign embassies occurred, in which his talents were called into active requisition; and especially, in 1468, he conducted that to Denmark for negotiating the marriage of James III., upon which occasion he was accompanied by the Comptroller of the royal household, Sir Alexander Napier of Merchiston, the father-in-law of Elizabeth Menteith of Rusky. The perfect success of this mission greatly increased the Chancellor's influence, and his reward seems to have been a *liferent gift*, under the Great Seal, of the *Comitatus* of Lennox. The grant is dated at Edinburgh, 4th May 1471, and bears to be from the King to Andrew Lord Avandale, his chancellor, for the singular favour and affection which his Majesty entertains for him, as well as for services rendered to the King and to his progenitor, of the lands, tenandries, and profits of the Earldom of Lennox, &c., to be as fully and freely enjoyed by him, during the whole period of his life, *as was wont to be enjoyed by the Earls of Lennox themselves*.\*

About the beginning of the year 1473 John Haldane of Gleneagles was on the eve of his embassy to Denmark. Despairing, under these circumstances, of obtaining the titles of his wife, Agnes Menteith, made up

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\* *Mag. Sig.* vii. 193.

to her quarter of the Lennox, and doubtless having particular views of his own in the matter, which the state of the times was very apt to engender, he contrived, *in the absence of all the other heirs, and without any party being heard for their interest*, to obtain a *special charter to himself* of a quarter of the Lennox, the extent of his wife's *pro indiviso* right. This charter, however, contains an express condition that Haldane shall guarantee to Lord Avandale the undisturbed enjoyment of his liferent so far as Haldane's charter extended. Upon this he takes infeftment, and immediately sets out upon his embassy to Denmark, fortified also with royal letters of protection from all pleas and suits in his absence, and for forty days after his return. His wife, Agnes Menteith, however, is not served to her heritage in the Lennox in any form, nor is she alluded to in her husband's charter. We have next to observe the steps taken by Dernely, which, in like manner, were obviously controlled by the views and schemes of the Chancellor.

James III., in a deed under his privy-seal and sign manual, dated 21st June 1473, just three months after the date of Haldane's charter, declares that John Lord Dernely had resigned into the King's hands the lands of the lordship of Dernely and others, there to remain until the said John Lord Dernely "his entrie to his part of the lands of the erledom of Levinax, and *therefter quhill* (until) he haif infeft and giffen to our weil belovit cousing and chancelar Andro Lord Avandaill the said lands of the erledom of Levynax *in liferent*, as frely and in sicklyke forme as our foresaid chancelar had the samyn lands of us befor; and also quhill our cousing Wilzam of Edmonston of Duntreath be made sickker (secure), be the said John Lord Dernale, for his part;" and it is further declared, that, upon Avandale and William of Edmonston being made secure and content, his Majesty shall immediately restore to Dernely all the lands held in security of this agreement, and infeft him therein as fully as he held them before, without cost or impediment.\*

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\* A notarial transcript of this deed, taken by order of Lord Dernely in September 1477, is in the Montrose charter-chest. See *Case for Woodhead*, pp. 67-8, and Andrew Stewart's History, p. 183. Sir William Edmonstone was married to Matilda Stewart, a natural daughter of James of Albany, and consequently was brother-in-law to the Chancellor.

Thus we see the scheme of the Chancellor progressing, and it only remains to investigate the titles of Elizabeth Menteith, the wife of Napier, in order to find it complete.

Merchiston's lady had made up titles to her estates in *the Menteith* so early as 1454. Yet I find among the Napier papers a precept of seisin, which clearly indicates that her paternal lands of *Rusky* had been resigned *in security* into the King's hands about the very time of the transaction with Dernely. The precept bears that Elizabeth Menteith had again resigned into the hands of James III. her lands of *Rusky*, &c., in security for the fulfilment of *certain special agreements*, that the stipulation had been *fulfilled*, and that the King's precept had issued in consequence for reinvestment. The seisin taken upon this is dated 8th May 1473; and although the precept does not mention what the special agreements were, there seems no room to doubt that it refers to the security of Avandale's liferent, as a condition of Elizabeth Menteith's entry to her share of *the Lennox*. Accordingly, the original deeds still extant shew that her titles to the Lennox were made up immediately after the date of the above precept. Her husband took no charter to himself, as her sister Agnes's husband had done. Napier, following the proper course of law under the circumstances, obtained his spouse to be installed feudally as a co-heir general to her great-grandfather Earl Duncan by the simple brieve of inquest, proving her propinquity, and thereby establishing her right, *pro indiviso*, to one quarter of this vast territory. Her retour is dated 4th November 1473. Upon this she was infeft, 16th November thereafter. The original deeds are still preserved in the Napier charter-chest.

But here I must interrupt this narrative of the fate of the Lennox and its honours, in order to meet the somewhat too triumphantly announced discovery you have made in Elizabeth Menteith's retour. As already noticed, you declare in your Preface that I have actually "supplied materials" which "help to set aside" the family claim I had undertaken to support. A single term occurring in the Latin retour in question, *quite accurately* indicating the precise propinquity claimed, consti-

tutes the whole "materials" you found upon. This we learn from what subsequently appears in your text, as follows:—

The claim of Lord Darnley, as descended from the second eldest daughter of Duncan Earl of Lennox, is corroborated by the terms of an instrument, dated 27th October 1473, by which Elizabeth Menteith, wife of John Napier of Merchiston, one of the lawful and nearest heirs of that Earl, affirmed that she would not acclaim nor pursue the superiority of the lands, earldom, and lordship of Lennox, as descended from the *junior* daughter of Earl Duncan; and also by the terms of her retour, which describes her as one of the heirs general of that Earl, in one fourth part of the earldom, dated 4th November 1473, as being lawfully descended from his *junior* daughter. Thus the proceedings of the Napier family, who admitted that their ancestress Margaret was the junior daughter of Earl Duncan in opposition to Haldane, who asserted the contrary, confirmed the claims of Darnley.—(*The Lennox, by William Fraser,* vol. i. p. 297.)

I have a good *quid pro quo* to offer in reply to this homily of yours. The whole of your history of the partition of the Lennox is founded upon the new idea that Lord Darnley was the true Earl of Lennox, by right of primogeniture of his grandmother Elizabeth over his grandaunt Margaret. Are you aware that you yourself have "supplied materials which help to set that claim aside"? Without imputing to you the opposite phases of the double-minded Philip, I appeal from yourself erring to yourself when in the vein of true history. In this very same Lennox of yours the true historical fact is stated, without any qualification, that Margaret of Lennox was the *second daughter* of Earl Duncan, and that thereby it came to pass that Haldane of Gleneagles claimed the honours of Lennox. In your statistical catalogue of the islands of Lochlomond you describe one of them in these words. (The italics are mine.)

TOR-INCH, which is in the shire of Stirling, is half a mile long. As mentioned before, this island and Elan-darroch were included in the part of the Lennox possessions which, on their partition, fell to the share of Haldane of Gleneagles, who, *being descended from Margaret second daughter* of Duncan, eighth and last Earl of Lennox, spouse of Robert Menteith of Rusky, was one of the claimants of the representatives of *this line*, and *through it* of the honours of Lennox.—(*The Lennox, by William Fraser,* vol. i. p. 66.)

No ingenuity of explanation can screw this paragraph into any other sense than what it bears in true history. Lady Margaret *was* Earl Duncan's *second* daughter, and that fact *was* the foundation of the Gleneagles claim to the honours of Lennox. *Mais revenons à notre propos.*

E

The first limb of your indictment against me is all mist, and the second mere confusion.

*First*, What can one make of that very inexplicit reference to an "instrument," for which the only authority you quote is "an *old inventory* of the Duke of Lennox's writs at Buchanan." There is no end to the wonders you have discovered in your favourite questing ground, but I do not find either the instrument you speak of, or the old inventory, in your volume of Lennox charters. The quotation is as loose as the authority is weak. You give us no date of the old inventory, but you say that the instrument is dated 27th October 1473, just eight days prior, be it observed, to the date of Elizabeth Menteith's retour. You tell us also that this mysterious instrument contains the words, "as descended from the *junior* daughter of Earl Duncan." Likely enough, for that is an exact translation of the very words of the retour itself,— "*tanquam de juniore filia dicti quondam Duncani legitime descendens*." I suspect you are here making two bites of one cherry. But let me remind you that an "old inventory" is not an "instrument." Neither can your loose mode of reference to it, as a conclusive argument against the "claim for the Napier family," be characterised as perfectly fair. You so put it that your drawing-room readers would very naturally understand you to mean this: Elizabeth Menteith affirmed, in an authentic instrumentary document, that she would not claim, nor raise any plea for, the chief superiority of the Lennox, *in respect that* she is *only* descended from the *youngest* of the three daughters of Earl Duncan! Had that been the plain import of the old inventory's record of that nameless instrument, I hope I may say, without offence, that you would not have quoted it so vaguely.

*Second*, In reference to this retour, and the precise and accurate terms of propinquity which it asserts, viz.,—" *tanquam de juniore filia dicti quondam Duncani legitime descendens*,"—you roundly inform your readers: "*Thus the proceedings of the Napier family admitted that their ancestress Margaret was the junior daughter of Earl Duncan, in opposition to Haldane who asserted the contrary.*" Here you are wrong, both in fact and law. There was no opposition between Napier and Haldane on that

question of fact. The latter maintained, and rightly, that his grandmother Margaret was *senior* to her *sister* Elizabeth. But he did not say (as Dernely falsely said of his grandmother Elizabeth) that she was the *senior daughter* of Earl Duncan. The fact, rightly maintained by Haldane, was not contradicted by any "proceedings of the Napier family." There they were all in the same boat. Neither, in law, could Elizabeth Menteith's retour be in opposition to Haldane on any point; for hers was the simple brieve of propinquity, involving no question whatever with any of the other coparceners. Then your verbal argument on the retour in question is a mere crudity. You translate the Latin word *junior* into the English word *youngest*. But that word is the comparative degree of the Latin adjective *juvenis*; and it is a contraction of the old form *juvenior*; which means the younger of two,—certainly not the *youngest of three*. Earl Duncan had three daughters, co-equal as his heirs, except in regard to impartible rights. Isabella was the *senior*, or eldest; Margaret, the *junior*, or younger; Elizabeth, the *minima natu*, or youngest. Modern uses of the Latin word *junior* for youngest is no rule of interpretation for a Latin retour of propinquity four hundred years old, and referring to the comparative ages of three daughters of the same parents.

Having disposed of this mare's nest, I return to the history of the progress of Lord Dernely's usurpation.

From the previous narrative it is obvious that, upon the demise of Duchess Isabella, Lord Avandale, chancellor, threw obstacles in the way of the immediate entry of all the heirs-general of Earl Duncan, that he then obtained for himself the most ample liferent grant of that fief possible, and, finally, allowed the heirs to make up their titles about the same period (with the exception of Agnes Menteith, whose husband took a special charter to himself), upon the *express condition* of their homologating his liferent, and guaranteeing the liferent possession held by himself and his brother-in-law Duntreath. This part of the history explains the circumstance of the Lennox remaining so long in *non-entry* after the death of the old Countess, and affords another sign of the times in reference to the difficulties which co-heiresses, especially females, had to

encounter in asserting their legal claims to the lofty rights and privileges of a great *Comitatus*.

*How the Illegality of Dernely's Service led to its Reduction.*

One legal effect of Haldane's mode of procedure in this matter was to prevent any process of division of the lands until his return. For when he obtained his charter he also fortified himself with a well known and most important legal document of those days, namely, royal letters of protection against all suits during his absence, and for forty days after his return. No brieves pleadable, therefore, could be legally discussed until these letters expired, and they afforded a very certain ground of reduction of any process that might appear to have been instituted contrary to their tenor.

Lord Dernely, however, as his whole public career proves, was not a man to stand upon ceremony with law or justice, and accordingly his service as an heir-general of Earl Duncan exhibits some curious irregularities. The brief of inquest which he demanded, and which at length issued from Chancery in his favour, when he had satisfied the conditions of the Chancellor, ordained (and could ordain no more), that his *pro indiviso* right to one half of the lands of the Lennox should be determined by the jury, upon their being satisfied of the propinquity upon which his claim depended. But Dernely, it seems, having packed a jury of his personal friends and dependents, got a verdict retoured to Chancery, which found what *ought not to have been found*, and did not find that *which ought*. This retour, still preserved in the Montrose charter-chest (I do not quote from your Cartulary), serves Dernely heir to Duncan Earl of Levenax in *the principal messuage* of the said earldom, and in the half of the property of the earldom. Again, it was the duty of a jury, under a brief of inquest, to determine upon explicit evidence the precise propinquity which gave the legal character claimed. But Dernely's retour not only does not name the daughter of Earl Duncan through whom he claimed, but it states broadly that she was the *senior daughter*,—that is to

say, the *eldest* daughter,—of Earl Duncan; which unquestionably she was not, Duchess Isabella being the eldest. The precise words are given in Mr Hamilton's Case for Woodhead, from the original retour among the Montrose papers. He quotes, "Retour, dated 23d July 1473, in possession of the Duke of Montrose: Copy in the claimant's possession"; and he furnishes the essential extract, which I may here translate. The retour bears, that Lord Dernely is lawful heir of Earl Duncan "in the principal messuage (*capitali messuagio*), and in all and whole the one-half of the said lands and earldom of Levenax, and of the superiority of the same, with its pertinents, as being lawfully descended from the senior daughter (*seniori filia*) of the said deceased Duncan," &c.

There can be no question that this retour was liable to be reduced on more points than one. Dernely had taken out no *pleadable* brieve. This was simply a *retourable* brieve of propinquity, under which no question could be legally raised between him and any of the other heirs-general of Earl Duncan. That common ancestor had three daughters. If Dernely chose to refer to his ancestress in the order of her birth, without naming her (as was the case), he was bound to do so with precise accuracy, or his brieve was not properly retourable. Now, his statement of propinquity, "*tanquam de seniori filia dicti quondam Duncani legitime descendens*," could only be true of Duchess Isabella, who had left no descendants whatever. You attempt, indeed, to mend this error *in essentialibus* of a retour of propinquity dated in the year 1473, by supplementing it with a conjecture of your own, in these words,—"*Meaning the senior daughter leaving issue*." But it did not say so, and the retour must be judged by its plain words. Then as for what Dernely really meant, the whole tenor of his proceedings indicates that he meant usurpation *per fas aut nefas*. In your "Lennox" you gravely reprove me in these words:—"Mr Napier, in his 'Partition of the Lennox,' does injustice to John Lord Darnley, whom he represents as an ambitious usurper; whereas Darnley, whatever in other respects he may have been, was in this case only prosecuting his rightful claims to the half of the earldom of Lennox, and to the title of Earl of Lennox, of which he was long unjustly deprived."—(*Preface* to vol. i. pp. xviii–xix).



But you yourself have brought to light a step in his proceedings utterly inconsistent with the idea of "prosecuting rightful claims," and really ruinous to your own dictatorial defence of him. You produce proof, that after his unsuccessful contest with Haldane, he scrupled not to institute a *false process of bastardy* against Agnes Menteith, his successful opponent's spouse! I must confess that this damning fact against the truth and justice of Dernely's proceedings is new to me. "Lord Darnley," you say, "was *determined* to maintain his rights as Earl of Lennox, and to oppose Haldane's claim as the senior co-heir. He *contested the legitimacy* of Agnes Menteith, Haldane's wife. On 26th July 1476 he presented a brief of bastardy to John Bishop of Dunblane against Agnes Menteith, spouse of John Haldane of Rusky."—(Vol. i. p. 302). You do not attempt to explain the meaning of that. "Marry, it was *muching mallecho*, and meant mischief." It was as base an attempt as if he had poisoned the cup of Agnes Menteith, to put her bodily out of the way of his postponed inheritance. You go on to add,—“In December of the same year (1476) he appointed procurators to enter appeals, &c., in the case of illegitimacy moved, but still undecided, between him and the said Agnes Menteith, before John Bishop of Dunblane, his official general and his commissary, specially appointed by him for the cognition of the cause.” For this last, you refer to "Notarial Instrument, dated at Glasgow 11th December 1476; *vide* vol. ii. of this book, p. 110." Dernely might say, "Save me from my friends." You have now justified my judgment of him, by proving against him an attempt, in furtherance of his usurpation, as nefarious as it was groundless and fruitless. It does not appear that he included her sister Elizabeth (who was equally in his way) in this false move, of which you record no more. These two young heiresses, of birth as exalted as his own, each succeeded to their broad lands in the Lennox and Menteith, without a stain on their scutcheon, and transmitted the same to their respective descendants, Napiers and Haldanes, for many generations.

But to return to Dernely's retour. The misstatement of his propinquity was not the worst flaw in it. It was entirely beyond the meaning and terms of such a brieve to determine anything about the

particular portion of the fief to be allotted, this not being a pleadable brieve of division. Yet the jury found that which enabled Dernely to obtain infeftment in the principal portion of the earldom, the *caput comitatus*, in the absence of all the parties, of which fact he took immediate advantage.

The precise period of Dernely's first assumption of the honours has been stated as a historical puzzle. In a very meagre and ill-informed case drawn up by Mr Wedderburn (afterwards Lord Chancellor Loughborough) for the Gleneagles family, printed some time in last century, it is stated,—“With regard to Lord Darnley's assuming the title of Lennox, the precise period when he first began to do so does not appear.” Accordingly, I took some pains to trace the fact, and the circumstances under which it was effected, in my History of the Lennox, which it suits your mistaken adoption of Dernely entirely to ignore. I may be forgiven, therefore, for using my own work, in restoring accuracy to the History which you have rendered so captivating to the eye, and so fatiguing to the arms.

So long as Dernely was not infeft upon any deed embracing the chief messuage of the Earldom, he indulged not in the style of Earl of Lennox. The date of his irregular service is 23d July 1473. The date of his infeftment is 27th July 1473, wherein he is only styled, “John Lord Dernely.”\* That infeftment being completed, however, and including expressly the principal messuage, the inevitable feudal consequence was the assumption of the title of the earldom. Accordingly, the date of the new royal charter which he then received of those other lands, resigned in security of Lord Avandale's liferent, is 6th August 1473, and in that charter he is styled “John Earl of Levenax.”† Upon the 2d of October 1473, he has his newly acquired rights and privileges proclaimed in the usual form of a royal precept, ordaining the tenants of the Lennox to

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\* Dernely Papers.

† It is recorded, Mag. Sig. vii. 59. Andrew Stewart, in the part of his history entitled “General view of the steps taken by John Lord Darnley for asserting his right to the estate and honours of the old Earls of Lennox,” had missed the important link afforded by this charter; and so had Mr Hamilton in his Case for Woodhead. He says, “Darnely, on the 10th October 1473, obtained a precept from James III., charging the free tenants and inhabitants of the earldom and lordship of the Levenax to obey and answer to him; and in this deed he is for the first time addressed by the style of Earl of Levenax.”—P. 68.

obey him as Earl.\* Thereafter his name is to be found for a short time in the records of Parliament as *Comes de Levenax*, and not merely as *Dominus de Dernele*.

Thus the basis of Dernely's first assumption is manifest. It was no new erection in his favour of a forfeited fief. He took up the honours as his *inheritance*, and by service to that ancestor who is said by some modern historians to have fallen under forfeiture. He claimed the earldom under the existing investiture of his family, namely, the charter of confirmation by Robert III. to Earl Duncan, &c. with a remainder to the heirs general of that nobleman. But, at the same time, Dernely only established his character by infestment taken upon a retour inept and reducible in every line of it, and which, accordingly, *was reduced*. I shall here state very generally the legal steps instantly taken by Haldane on his return from his embassy, which are more fully illustrated in my history of the Lennox.

Upon his return in 1475, he protested against Lord Dernely's assumption of the honours of Lennox, but laid no express claim to those honours, either for himself or spouse. He complained to the King, that his royal letters of protection from all pleas, &c. had been treated with contempt, and broken by the proceeding of Dernely, in his, Haldane's, absence,—that he had an interest as well as his spouse, Agnes Menteith, to have been specially called and heard in any process affecting a special appropriation of the Lennox; and in evidence of this plea he produced his own charter to a *pro indiviso* quarter of that fief, upon which he had *been infest* before his departure. He also urged the prior right of his wife Agnes Menteith, over Dernely, to the superiorities of the fief, and asserted that Dernely had frequently offered Agnes *contentation* for these superiorities. But he made no allusion in this complaint to the rights of Elizabeth Menteith, or to the fact that Dernely offered in like manner to that lady, contentation for her right to the superiorities of the Lennox. The King remitted this complaint to the Lords of his Council, and certain other Barons, who found, that royal letters of protection in favour of his

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\* Dernely Papers. Andrew Stewart, p. 185, says the 2d of October. Mr Hamilton, p. 68, says the 10th of October. Both authors had the advantage of inspecting these papers, which came into the Montrose family with the Dernely property.

Majesty's ambassador had been infringed and broken by the proceedings of Lord Dernely; and upon *this deliverance* letters passed the Privy Seal, reducing and annulling all the proceedings founded upon that nobleman's briefes of inquest, and placing matters *in statu quo*, by expressly reserving all rights to all parties.

Haldane's protest, with which he commenced his attack upon the service of Dernely, is dated 26th April 1475.\* A Parliament was held on the 20th November following, in which Dernely still sat as "Comes de Levenax." On the 4th of December following, the King granted a commission of lieutenancy, "Johanni Comiti de Levenax."† On the 12th of January following (that is, still in the year 1475, according to the Scottish calendar of that period), the letters of reduction referred to above pass the Privy Seal, and in these letters he is only styled "John Lord Dernely." On the first of July 1476, six months after this decree of reduction, and seven after the date of the commission of lieutenancy, a new Parliament was held, and the first person named as taking his seat, after the *Comites* and among the *Domini*, is "Dernele."‡

For *thirteen years thereafter*, a fact not attended to by the historians of Scotland, in every public record of that nobleman's name extant, he is styled *Lord Dernely*, and not Earl of Lennox, until the first Parliament of the succeeding reign in 1488, when he reappears under the higher dignity, after a progress of events which was very favourable to a renewal of his usurpation. During the interval, some private and fruitless attempts to compromise matters with Haldane of Gleneagles occurred, of a very confused and irregular nature, which I have detailed in my "Lennox," and need not enter upon at present.

But here I must pause to rescue this important evidence of the usurping proceedings of Dernely, which your mode of pleading his case entirely divests of its point against him, by confusing dates and documents.

You do not omit to notice that "on the 12th January 1475," Dernely's retour was reduced and annulled by letters under the Privy

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\* Gleneagles Papers.

† "*Rex dedit literam locum tenentis Johanni Comiti de Levenax infra bondas et vic. de Renfrew, Are, Wigtowne,*" &c.—Mag. Sig. vii. 358.

‡ See the Records of the Scottish Parliament of the periods.—(Notes to my "Lennox," p. 63).

Seal of James III., "as being unjustly deduced against the said John Haldane when absent from the country on his Majesty's special service," &c. (your own words, p. 299). You ought, however, to have given the date in this form 1475-6; as at that time the 25th of March was New Year's day. So we must remember that the annulling of Dernely's retour was in *January* near the close of the *then* year 1475, and, consequently, not prior to, but two months *later* than 20th November 1475 of the same calendar. This is most important, in order fully to appreciate Dernely's proceedings, and is fatal to your justification of them. You say:—

In the Parliament held on 20th November 1475, Lord Dernely sat as *Earl of Lennox*, and he is ranked in the sederunt between the Earls of Huntly and Argyll. Under *that designation* he obtained, on the 4th of December following, from the King, a commission of lieutenancy within the bounds of the shires of Ayr, Wigtown, and the westward of Clydesdale. *After this*, for thirteen years, his name does not occur in the public records as Earl of Lennox, but simply of John Lord Darnley. Why, it may be asked, did *he drop* the dignity of Earl of Lennox. The explanation, we presume, may be found in the facts that Lord Avandale was in possession of the liferent of the whole earldom of Lennox, and that the Haldanes had obtained from the Crown a competing right as the principal of the co-heirs of the earldom.—(Vol. i. p. 301).

Drop the dignity! Why, it was the dignity that dropped him. But from the way you state the dates, and arrange your materials, the reader would be led to understand that, although Dernely's retour as Earl of Lennox was reduced and annulled "on 12th January 1475," yet "on 20th November 1475," (*i.e.*, nearly a twelvemonth after as you would make it), he *still* sat in Parliament as Earl of Lennox; and, under the same designation, was gifted by the King with a most important lieutenancy "on the 4th of December following." Now, I must beg our readers to understand, that the proper date of Dernely's dethronement from the earldom he had usurped, being January 1475-6, or, as we would now write it, 1476, his sitting in Parliament 20th November 1475, and his gift of lieutenancy 4th December following, relate to the two months *immediately preceding his dethronement*, 12th January 1475-6, instead of a twelvemonth after, which makes all the difference. There is the answer to your question "Why did Dernely drop the dignity of Earl of Lennox"? It was under your eyes while you were

puzzling yourself and your readers with other answers that are no answers at all. That Avandale possessed the liferent, was no answer ; for Dernely only got his retour expressly under that condition. That Haldane had taken a charter to himself of his wife's quarter of the lands, with some dubious expressions as to his being "*primo et principali*," was no answer ; for Dernely's plea was that he excluded Haldane altogether from the dignity by right of primogeniture. The true answer is the reduction of his retour, which was *subsequent* to his sitting in Parliament and being acknowledged by the King as Earl. And, for thirteen years *after that decision against him*, he was never known again as Earl of Lennox, except in blundering histories.

It is now my turn to put a question. Why did Dernely never thereafter serve himself heir to the honours of Lennox in proper forms of law ? And why, a twelvemonth *after* he had been thus compelled to forego the title of Earl of Lennox, did he raise that nefarious and futile process of bastardy against Agnes Menteith, which you, (for the first time so far as I am aware), have proved against him, by way of illustrating his prior and legitimate right, and the "injustice" that I had done him in my history of those events ? *Causa patet*. There was nothing, even in the state of the times, to defeat Lord Dernely's assumption of the dignity of Lennox,—inheriting as he did a double portion of the fief, and being already an influential peer of Parliament,—had he really been the representative of Earl Duncan's *second* daughter. The law on the subject of female succession to titles of honour was well understood, and, however apt to be disregarded by the powerful to the prejudice of a weaker party, where *might* and *right* were combined no one could pretend to dispute it. Nor was it indifference on the part of Dernely that delayed his aggrandizement. He thirsted for the earldom of Lennox, and left no means untried to acquire it. Yet, after his service was exposed and destroyed by the technical pleas of a party of inferior influence, who made no attempt to assume the title, Dernely suffered it to remain in abeyance for thirteen years. Had he been conscious of an unchallengeable right, he would have obtained new briefs,—he would have disregarded John Haldane's charter of a quarter of the fief, though granted to him *tanquam*

*primo et principali*; he would have dared him to a competition with the rightful and powerful heir of the dignity, and he would have asserted, and proved, in the face of his country and his peers, his right to sit in Parliament as Earl of Lennox.

In your historical narrative you only epitomize the deed of reduction of Dernely's retour, which might well escape the notice of your readers altogether, in the cursory way you have treated it and confused the dates. I have given it, however, *in extenso*, in my "Lennox" (pp. 97, 98), from the Gleneagles papers, which were at that time open to my inspection in the hands of the late Mr Dallas.\* It is a most important document in reference to the history of the Lennox, and its final partition. It proves by a declaration issuing from the fountain of honours,—

1. That Dernely had sat in Parliament among the *Comites* or Earls, solely in virtue of his service, which was afterwards pronounced to be inept, and was annulled accordingly, he being only styled, "Johne Lord Dernely," in the decree of reduction.

2. That there was no public acknowledgment of Haldane's right, by courtesy, to the earldom of Lennox, and no express grant to that effect in his irregular charter "*tanquam primo et principali*," (words which might be restricted to the quarter which his charter embraced), either meant by the Sovereign, or understood by Haldane, for he is simply styled our "famiare (*i.e.*, household) squyre," although he was *infeft* upon the charter said to convey the honours, and although the decree was founded upon that very charter.

3. That any claim which Haldane had put forth in name of his spouse to the superiority of the earldom was not admitted as a matter of acknowledged right, but simply *in absence*, no other party having appeared or been heard in the matter before he departed on his embassy.

4. That whatever subsidiary plea Haldane may have urged in right of his lady, his leading plea, and that too upon which the judgment mainly proceeded, was, that his royal letters of *protection from all suits*, &c. had

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\* In the Preface to my "Lennox," I "acknowledge my obligations to William Dallas, Esq., W.S., who, at all times, most obligingly afforded me access to inspect such of the Gleneagles papers as were in his hands." The late Mr Dallas was a near connection of the Gleneagles family.

been broken by Dernely's service to a special, and the highest, portion of the fief, a process to which Haldane, who was infeft in a portion, and the other coparceners, ought to have been called.

5. That the decree of reduction involves no declarator either of Haldane's or his lady's right to the dignity, but, on the contrary, expressly reserves the rights of all parties having claims ; and places that matter precisely *in statu quo* as it stood when Haldane departed on his embassy as *plain John Haldane*.

The inference to be deduced from the foregoing narrative against the pretensions of your hero John Lord Dernely is irresistible. He was a powerful intriguing usurper in days when might made right. The wonder is, that having succeeded so far, he failed at that time in his attempt to over-ride both law and justice. You are the first who ever maintained, historically and dogmatically, that Dernely's right to inherit, as representing the senior coheiress next to the Duchess-Countess, the highest honours of the Lennox, though constantly questioned, was really unquestionable. You boldly assume it, without producing a single new document in support, or a single argument which at all alters the aspect of the question since I wrote my "History of the Partition of the Lennox," in 1835. In a historico-antiquarian sense, you have yourself usurped the Lennox, and failed to produce a sufficient title. But this is not all. I proceed to remind you of documentary evidence recorded in my Lennox, of a more direct character against Dernely's pretension than the inference afforded by his proceedings, and which really gives it the *coup de grace*. I allude to a Latin charter of mortification, granted by Duchess Isabella, of date 18th May 1451, of which the following is the tenor :—

To all who shall see or hear this charter, Isabella Duchess of Albany and Countess of Lennox, greeting, &c. Know us, *with the consent and assent of our dearest sister-german, Margaret, spouse of the late Lord of Rusky*, to have given, and for the sake of charity to have granted, and by this our present charter to have confirmed perpetually, to the honour and praise of God Almighty, and the glory of his Mother the blessed Mary, everlasting Virgin, of the holy archangel Michael, of Saint Dominic and all the Saints,—to our dear brothers, John de Govane, Prior of the Predicant Friars of Glasgow, and his successors, for the safety of our soul, and that of our dearest spouse of blessed memory, Sir Murdoch, Lord Duke of Albany, and also of the soul of the deceased Sir Duncan Earl of Lennox, our pro-



genitor, and of the souls of Walter, James, and Alexander, our sons deceased; and of the souls of all who have died in the faith, &c. our lands of Kilmarnock within our earldom of Lennox, to be held of us and our heirs for ever in pure and perpetual charity, with all the pertinents, freedoms, and liberties belonging to the lands. Dated at our manor of Inchmyrryne, 18th May 1451, and witnessed by Murdoch, Arthur, and Robert Stewarts of Albany. The seal of the Duchess is appended with the seal "of our said dearest sister."\*

Your attempt to overcome this clincher against your case of primogeniture for Dernely simply amounts to a confession that you cannot grapple with it. You meet it thus, dismissing it as rapidly as possible.

The reason for Margaret being made a consenter to this deed is not stated, but it probably was, not only that she concurred in the object of the endowment, but because her sister Elizabeth was by this time deceased. Margaret must then have been far advanced in years.—(Vol. i. p. 272).

And so you leave it! Here, again, the real reason being manifest, you puzzle about for a bad one. In the first place, there is no evidence that Dernely's grandmother Elizabeth was at that time dead. But suppose it were so, what then? Dernely himself was then alive, a married man, and with a male heir of his body, to perpetuate his line. The death of his grandmother, Lady Elizabeth, according to your own theory, would at once have brought him into the position of the immediate heir of the Lennox and its honours, by virtue of her primogeniture. Under such circumstances, what could the formal "consent and assent" of his old grand-aunt, Lady Margaret, have to do with a grant of Lennox lands in perpetuity, he himself not asked to consent, though at that time seemingly on the very eve, in the course of nature, of becoming lord and master of the whole *Comitatus* which he so greatly coveted? No one knew better than did the old Duchess-Countess the meaning and effect of the heir in possession taking the consent of the party, or parties, most nearly concerned in any dilapidation, however pious, of a tailzied fief. Her father, Earl Duncan, granted a charter to Sir William Graham, dated 10th August 1423, of certain lands in the Lennox, which in like manner expressly bears to be granted with the consent of his daughter and heiress

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\* See my Lennox, p. 19, where this is quoted from "Mr Denniston's Book of Transcripts, MSS." See also p. 111. The original of this important charter is preserved in Glasgow College.

Isabella Duchess of Albany, and also with the consent and goodwill of his grandson Walter Stewart, son and heir of Isabella and her husband, the Duke of Albany.\* Why? Because these were the heirs-apparent of the tailzied *Comitatus*. There is another still more pregnant example. Of date 22d July 1421 Earl Duncan grants a charter to his natural son "Donald of the Levenax," the preamble to which is the consent of his grandson and *legitimate heir*, Walter Stewart, in these words:—

Be it kende till all men be thir present lettres, *with the consent and the assent of Walter Stewart*, till haffe giffine, and till haffe grantit, and, be this writ, gifes and grantis till my weilbelufit sone laffwell [*legitimated*] Donald of the Levenax, all and singular my lands of Ballyncorrach, &c.

Why was Walter Stewart's consent required? Because, as the eldest son of Duchess Isabella, he was the legitimate heir-apparent of the fief, and his consent was necessary to ratify that grant to his illegitimate brother, the word "laffwell" applied to the latter meaning no more than that, per favour of royal letters of legitimation, he had obtained certain lesser privileges of heritable succession, relieving him so far from the disabilities of the bend sinister.†

*History of Dernely's Second Assumption of the Honours of Lennox—His Contracts of Excambion with the senior co-heirs—Final Partition and Settlement of the Fief—Line of the existing Dukedom.*

Every subsequent step in Dernely's proceedings, from the period of his dethronement, by the reduction of his false retour 12th January 1445-6, to the close of the reign of James III., and so down to the period in the reign of James IV., when he *bargained* with the senior co-heirs, who wisely sold their birthright for a mess of potage much too valuable to run the risk of losing it altogether, confirms the view illus-

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\* "Cum consensu filie sue Domine Isabella Duchise Albanie, ac cum consensu et bona voluntate nepotis sui Valteri Senescalli filii et heredis prefati Ducis Albanie."—(*See my Lennox*, p. 35.)

† See the whole of this part of the Lennox history fully treated and illustrated in my "Lennox," c. 4, pp. 38 to 40.

trated in the previous section, that Dernely's claim to the honours of Lennox, by primogeniture, is contrary to the actual state of the fact.

The last ten years of the reign of James III. are turbulent with civil broils, increasing to the deadliest pitch of civil war, and concluding in 1488 with the battle of Sauchieburn. In all these events, your hero, John Lord Dernely, was a prominent actor. The salient features are the slaughter of the King's favourites by the disaffected nobles at the bridge of Lauder; the temporary usurpation of the Crown of Scotland by Alexander Duke of Albany, the King's brother; and lastly, an insurrection, whose crisis at Sauchieburn brought the Prince of Scotland, a misguided boy, under the standard of rebellion against his own father, and construed loyalty to the old King treason to the new. Amid this violence and confusion neither the Chancellor Avandale nor Lord Dernely were idle, and the power and influence of the latter seem to have increased as that of the former was on the wane. Upon the 10th of April 1481 Dernely was appointed to the important office of warden of the west march, the Earl of Angus commanding the east. This appointment shews how high the former at this time stood in the King's favour, and ranked in the realm; and how untenable is the idea that your hero would at this time have only been styled, as he was, *Lord Dernely*, had the right of primogeniture, upon which fact alone he maintained his right to the honours of Lennox, not been understood by himself and all the world as utterly destroyed by the proceedings which resulted in the reduction of his false retour. A mere technical objection to it could easily have been remedied by a renewal of his claim in terms of law, which he never after attempted to face.

In the year 1482 the conspiracy against the King's favourites broke out, and in the ranks of the conspirators noblemen are found who had hitherto been the most loyal supporters of the Crown. The Chancellor Avandale, still in possession of the Lennox, turns against the Sovereign who had heaped upon him honours and unjust wealth, and whose Chancellor he had been for twenty-two years. That both Avandale and Dernely had deserted their Sovereign, James III., at this crisis of turbulence and treason, is stated by the old historians Lesley and Pitscottie,

and confirmed by the records of Scotland. Andrew Stewart, the genealogical historian of the Stewarts most inclined to favour Dernely, but who is occasionally confused and inaccurate from the paucity of contemporary materials, fairly confesses his inability to clear him from the imputation. Further research, however, places it beyond reasonable doubt that this restless and lawless hero of yours—for he is peculiarly your own—who was playing a deep and cunning game for the *Comitatus* of Lennox, joined, when warden of the west marches, the ruffian crew of the rebel lords (led by Angus, warden of the east marches), who hanged the King's favourites over the bridge of Lauder. Immediately after this exploit, the conspirators, including Dernely, who still only enjoyed that minor rank of the nobility (although Tytler and other historians erroneously design him "Lennox,") disbanding their forces, carried the King to Edinburgh, and shut him up in the Castle, to which Albany laid siege. All of a sudden, however, Dernely is found enacting the opposite rôle of the King's guardian and protector. This appears to have been part of his ever-shifting schemes to become Lord of the Lennox,—under *which King*, however, this Bezonian was not yet prepared to say. His genealogical historian, Andrew Stewart, illustrates, or rather still further darkens, this page of history, by discovering and publishing, for the first time, a strange document preserved in the Montrose archives. It is entitled a "Signature of Remission," under the privy seal of the faction-ridden King, ordering a charter to be passed under the great seal, in favour of "his cousine John Lord *Dernely*" (not Lennox), absolving and protecting him, and a host of his myrmidons, from all charges of treason whatsoever; and more especially from that of the King having been "keepit in warde against his will in the Castell of Edinburgh." This document declares, in a most suspicious narrative, how it was at the King's own command, and by reason of the singular trust he had in Dernely, and great personal dread of "certain Lords and persons that were there about him, who, he feared, would have slain and undone him,"—that he had "prayed and charged him (*Dernely*), with certain servitors of his, to remain and await upon his (the King's) person, both night and day, for the keeping

and defence of him." Moreover, it declares that his Majesty had "charged, and given licence" to Dernely, to have certain dealings with the rest of the rebel Lords, and to "seal and subscribe" certain documents, in order "that they should take no suspicion against the said *Lord Dernely* by his refusing thereof, and therethrough have removed him, and put him from the keeping of the said Castle and of our Sovereign Lord's person," &c. Hence, when the King had been released from the Castle of Edinburgh, and transferred to the no less dangerous custody of Albany, Dernely had wisely contrived to obtain this sweeping remission, for himself and followers, from all charges of treason, accompanied with a declaration that he and they are *true lieges*. "This original deed," adds Andrew Stewart, "which seems to have been unknown to all the historians of the events in those times, is amongst the Dernely papers in the Duke of Montrose's possession, with the King's subscription to it, and will be found in the Appendix."—(*Andrew Stewart's History of the Stewarts*, p. 188). Without the slightest recognition of this meritorious historian's publication, in 1798, of the very remarkable document he had discovered, you reprint it, in 1874, in your volume of Lennox Charters, the originality and value of which repertory, as regards anything new touching the history of the Lennox, I have been disappointed in my endeavours to discover. Referring to the King's confinement in Edinburgh Castle, you say,—

Under these circumstances, if the King is to be credited, they not only kept a strict watch over him, but would have put him to death had he not been protected by Lord Darnley, of whose friendly feelings he speaks in the highest terms, and by other barons, who remained beside him night and day, that no personal harm might befall him. This we learn from a signature of remission by the King in favour of John Lord Darnly, dated 19th of October 1482. *Vide*, vol. ii. of *this work*, p. 121. (*Fraser's Lennox*).

For the benefit of your readers, few of whom will care to study your wilderness of charters *in extenso*, you furnish a separate abstract of each in chronological order, the convenience of which is manifest. But that of the document in hand is only of use as an index to its place in your cartulary; for in your abstract it is diluted to extinction, and its bearing upon history altogether lost. In reference to

Dernely's exoneration from the treason of the King's forcible detention in the Castle, you give it in these unmeaning words,—“ And commanding that no one, in time to come, would *impute blame* to the said Lord Dernele, or his servitors, who are therein named, in connection therewith,” &c. Impute blame! The deed of exoneration is couched in language somewhat more to the purpose than that. It implies that Dernely and his following had been steeped to the lips in treason of the highest reach, requiring absolvitor from the Sovereign of the most comprehensive character. It declares them quit and free from all charges of complicity in the King's imprisonment, and from all other acts of high treason (“*hurt Majeste*”), at any time before the date of the remission; and it commands and charges every hand of the executive in the kingdom, “justice, sheriff, or justice-clerk,” and all other of the lieges, to abstain from arresting, attaching, indicting, or accusing the said Lord Dernely, or his servitors, for any causes foresaid, or to “*murmur him* or them, in their honour or good fame, in anywise in judgment in time to come, under all the highest pain and charge they may incur against our Sovereign Lord's Majesty.” This is somewhat stronger than a prohibition from “imputing blame” to this nest of treasonable conspirators. Truly the hand was the hand of the King, but the voice was the voice of Dernely. No wonder that this shirt of mail, *in petto*, had escaped the knowledge of all the old historians of those disjointed times.

But the aim and object of your Lennox would seem to be to attain originality in that exhausted theme, by maintaining Dernely to be faultless both in his law and his loyalty. He was *de jure* Earl of Lennox by the law of primogeniture! He never, for a moment, was faithless to his Sovereign! Such is the gist, and the whole originality, of “The Lennox, by William Fraser.” Ignoring all better lights, when against your case, you fire your red flambeau at the torch of your own imagination. The following is a specimen of good history corrected into bad:—

That Lord Darnley was implicated in the conspiracy against the King has *generally been alleged by historians*. But Drummond of Hawthornden affirms the contrary. His affirmation *appears to be confirmed* by the safe-conduct, dated 5th May 1488, granted by

King Henry the Seventh of England to Matthew Stewart, Master of Darnley, along with the Bishops of Glasgow and Dunkeld, the Earl of Argyle, Chancellor of Scotland, or any four of them, with one hundred and sixty attendants, horses, carriages, &c., to come into England, or into other places subject to the English crown. Those to whom this passport was given belonged, *there is reason to believe*, to the supporters of King James the Third. It was granted shortly before the battle in which the King was killed,\* and was probably an effort on his part to obtain the assistance of the English monarch against his rebel subjects.—(*Fraser's Lennox*, 1, 318).

This guessing for the nonce is not history. Drummond was a better poet than historian. The embassy to Henry VII., which you quote in support of him, is direct authority against him. There is every reason to believe that it was inimical to James III. They were intriguing with the King of England against their own Sovereign. They were of the faction who had seized the person of James III., and hanged his favourites over a bridge. They were the emissaries of the Prince's faction who had dubbed him King of Scotland. Ridpath, in his *Border History*, gives the names of the members of this invidious mission, and puzzles over that of the "Master of Dernlee." He says,—“Was Matthew Stewart of Dernlee, son to the Earl of Lennox; which Earl is also mentioned as one of the rebels?” No; he was not the son of the Earl of Lennox. He was the son and heir of Baron Lord Dernely, and therefore was designed Master of Dernely, a title properly belonging to the eldest son of a Scottish Baron. In recording this mission, Ridpath says,—“Henry was also in some secret correspondence with that party of the Scottish nobles who openly rebelled this year against their Sovereign; for there were letters of safe conduct, and a special protection granted by him in the month of May (1488), with the advice of his Council, to several of the heads of that faction.”—(P. 457.) Tytler, (2d edit. p. 267) in like manner, says,—“Henry, who had looked coldly on the father in consequence of his insisting upon the restoration of Berwick, did not scruple to treat with the son as *King of Scots*, and to grant passports for his ambassadors, the Bishops of Glasgow and Dunkeld, the Earl of Argyle, the Lords Lyle and Hailes, with the

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\* Alas! the King was *not* killed in battle. He was savagely and treacherously murdered when making his escape from it somewhat meanly.

Master of Hume." This accomplished historian omits, merely *per incuriam*, the "Master of Dernely." There is no question that he too was on this mission, and representing the House of Dernely. And however that intriguing nobleman may have *guarded* the person of the unhappy monarch, until he delivered him into the power of Albany, at the hour of the last struggle for his throne Dernely was found in the ranks of his destroyers, and supporting the son who accomplished the ruin and the death of his own father.

Although the proofs are scant and fragmentary, it is not very difficult to fathom the game that Dernely was playing, and which the distracted state of Scotland towards the close of the reign of James III. enabled him to carry out successfully, at the commencement of the reign of his successor. For a short stormy period it was very doubtful who was to reign in Scotland. Was the King to succeed in keeping his throne? Or was he to be dethroned by his unnatural son? Or was the throne to be snatched from them both by the King's ungenerous brother? The wires of all these chances Dernely contrived to hold in his own hands, *in utrumque paratus*. If the King himself had succeeded in his last struggle, Dernely held *in petto* that deed of exoneration for himself and his great following, under the hand of the King himself, which made him safe in that quarter. If the cards had turned up for Albany, had not Dernely guarded the King night and day in the Castle to hand him over to its victorious besieger? And if fate or fortune willed that the puppet Prince was to rise on the ruin of his father, Dernely could boast of having assisted to hang the late King's minions over the bridge of Lauder, and paved the way for James the Fourth by intriguing with England. In any case his reward would be the Lennox.

And this last it was that happened. The battle of Sauchie occurred on the 11th of June 1488. On the 6th of October following, the first Parliament of the new reign met, and there Lord Dernely suddenly reappears as Earl of Lennox. I shall here quote the words of the genealogical historian who will not be suspected of any partiality against the House of Dernely.

It appears that, in the first Parliament of James IV., in the year 1488, John Earl of



Lennox was present on the second day of its sitting ; and that Lord Lyle was then Justice-General ; that Parliament, it is believed, was not attended by those who had supported the cause of the deceased sovereign James III. ; it was attended by those who had espoused the cause of the Prince and of the confederate lords. Besides these proofs of his connection with the Prince's party, there were several instances of favour shewn to Lennox and his son Matthew in the early part of the reign of James IV. ; from all which, it must be confessed, there is *too much reason to conclude* that John Lord Dernely, Earl of Lennox, was in confidence with the party that deposed James III. ; and *availed himself of the circumstances of the times to establish his title* to the earldom of Lennox, which had been withheld from him since the death of Isabel Countess of Lennox.—(*Andrew Stewart*, p. 190).

But who, it may be asked, had *withheld* the earldom of Lennox from John Lord Dernely ? or *how* had he so suddenly, in the course of a few months of civil commotions and war—"circumstances of the times" most unfavourable for a deliberate and legal assertion of right—*established his title* to that earldom ? Most unquestionably he had resumed the honours upon this occasion without having taken any legal steps whatever, as is sufficiently proved by the dates of the transactions I have reviewed ; and he now sat as Earl of Lennox, without ever having renewed the titles that had been reduced. "The patent or charter," says this historian, "creating John Stuart Lord Dernely, Earl of Lennox, *has not been discovered*, therefore nothing positive can be asserted with regard to the terms of it, or the destination of that title:" but, he adds, "it is clear that the question about the peerage of Lennox must have been *settled and acknowledged* before the year 1490." There is, however, a process to which I shall call attention in the sequel, which not only contradicts this assumption, but places beyond question the fact that Dernely never obtained a *new constitution* of the dignity, and that there never was any *renunciation and regrant* of the honours preparatory to his having thus assumed them in the first Parliament of James IV.

Indoctrinated by myself, as to the actual state of Dernely's *de jure* right to his coveted position of Lord of the Lennox, you arrive at this conclusion, not very happily expressed as regards your case for the usurper :—

No regrant appears to have been made by King James the Fourth of the title of Earl of Lennox. On resuming the title on the death of Lord Avandale, Lord Dernely *held by his*

*original retour*, and infeftment, of the year 1473 ; and his *right of blood* as senior co-heir of Earl Duncan.—(Vol. i. p. 306). \*

He could hold by neither the one nor the other. You seem to have forgotten what happened in 1475. "The Lords of Counsale, togidder with uthir barons of our realm," sitting to advise his Majesty as to this very retour and all that passed upon it, had annulled the whole in these words:—"Our will is that the said brevis, sesingis, interest, and all uthir things following tharupon, purchest and obtenit by the said John Lord Dernely," &c., "be of *nane avail, strength, force, nor effect, before ony Juge or Jugeis, spirituale or temporale, in time coming, and that thai be annullit for ever.*" You may as well speak of a bull-dog pinning the shadow of a bull on the wall, as of Dernely "holding by" this retour and its consequents. And as for his "right of blood, as senior co-heir of Earl Duncan," which came to grief at the same time, he never again ventured to assert such right in any form whatever. That was reserved for you to maintain against proof four centuries afterwards. In 1488, Dernely, to adopt the words of his genealogical historian, "availed himself of the circumstances of the times" to resume the honours of Lennox which he had been compelled by the law of the land (not utterly extinguished), to drop for thirteen years until this crisis so favourable for him arose.

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\* You compel me to be egotistical in defence of the book you both borrow from and belie. It had been universally assumed that Dernely sat as Lennox in 1488 under a new creation in his favour by James IV. ; although, as Andrew Stewart admits, the charter or patent has never been discovered, and the terms of it are unknown. No such creation ever occurred. You adopt that fact ; and as you derive it from my book, your accuracy here may be relied upon. Lord Lindsay (now Earl of Crawford and Balcarres), in his able and most laborious "Analysis of the Argument," in his Report of the great but unsuccessful attempt to recover the ancient Dukedom of Montrose (appended to his "Address to the Queen") notes as follows:—

"A learned Scottish antiquary and genealogist, Mark Napier, Esq., has decisively proved that there was no new creation (as was formerly supposed) of the Earldom of Lennox in 1488 ; but that Lord Darnley's right, as heir of line of the ancient Earls, which had been previously in question, was in that year recognised (although, as the learned author contends, unjustly), by King and Parliament.—*History of the Partition of the Lennox*, pp. 82, seq."

Sincerely disclaiming the learned character so courteously assigned to me by this accomplished nobleman, I may be pardoned, under the circumstances, for quoting, from so high a quarter, this appreciation of my old Lennox labours, which you would stamp out.

*How the two Co-heiresses of Lennox and Rusky sold their birthright to Lord Dernely, whereby he became, de facto, undisputed Earl of the Lennox.*

Allowing, meanwhile, to lie *in retentis* the moot point, which was the elder of these two great co-heiresses, Elizabeth Menteith, married to Napier of Merchiston, or Agnes Menteith, married to Haldane of Gleneagles—a question you crudely nibble at, but which is not *hujus loci*—I proceed to give the history of those contracts of excambion, whereby Dernely became enabled finally to enjoy his long coveted honours, and full power over this magnificent *Comitatus*. Indeed, although they dealt with these important rights in a manner that was quite without the pale of the law, and nugatory as regarded their successors (for so the House of Lords has pronounced in our time), these ladies, or their representatives, were wise in their generation to bring this great contention, which lasted over twenty years, to so sensible a conclusion at last. For the earldom of Lennox, with all its vast appliances, was a great power in the state, which a co-heiress, married only to a lesser baron, could have no chance of maintaining in such a turbulent kingdom as Scotland then was. And the least exceptionable part of Dernely's conduct in the whole matter was his final settlement of the contention, by *bargaining* with both of these co-heiresses to the effect of their neutralizing the fact that *their* grandmother, Margaret of Lennox, was *senior* to *his* grandmother Elizabeth of Lennox, and, by consequence, the real heir, to his exclusion, of the last Earl, in terms of the settlement of the Lennox in 1391, by King Robert III., in the marriage-contract of Duchess Isabella. But had either of the young ladies Menteith been married to a great and potent nobleman, your hero, John Lord Dernely, would never have been Earl of Lennox.

*Excambion with Elizabeth Menteith.*

Immediately after the date of the conflict of Sauchie, which took place on the 11th June 1488, Lord Dernely still retained that minor style and title, though Lord Avandale was recently dead, and his liferent

grant no longer burdened the Lennox.\* Upon the 12th July 1488, one month after the death of James III., Elizabeth Menteith, designed *relict* of John Napier of Merchiston, obtains a decree of the Lords of Council to secure obedience to her in her quarter of the Lennox. Among the Lords who compose the sederunt upon this occasion is John Stewart, who sits as "*Dernle*" and not as Levenax. Of the same date letters pass the Privy Seal of James IV., in terms of this decree, in favour of Elizabeth Menteith; and the first witness to their proclamation is *Alexander* Stewart of Avandale, the Chancellor being now dead.† Obviously this proceeding of the lady of Rusky (as she was generally styled) was in consequence of Lord Avandale's liferent having lapsed, and as a preliminary step towards the securing her own peaceable possession and full enjoyment of one quarter of the great fief, to be settled under briefs of division.

The conduct of this lady with regard to her patrimonial rights, supposing her to have been the eldest co-heiress of the Lennox, appears to have been dictated by prudence and spirit, though controlled by necessity. Neither she, nor her husband Merchiston, who belonged to the household of James III., appear to have put in any claim for the dormant earldom, although that cannot be said with certainty after a lapse of four centuries. At all events, however, her right to a fourth part of the lands was fortified by every form of law requisite to protect her possession. But she was a widow, with a family of five sons and two daughters, and her husband and his father had never swerved from that loyalty to James III. which was apt to be construed into treason at the commencement of the reign of his son.‡ Lord Dernely, on the other hand, was now a distinguished leader among the popular party which surrounded the young King, and, accordingly, the records instruct that he actually took his seat as Earl of Levenax in the first Parliament of James IV. held at Edinburgh upon the 6th October 1488, just four

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\* Avandale, who had been deprived of the Chancellorship because of his complicity with the conspirators who imprisoned the King in the Castle of Edinburgh, but not of his liferent of the Lennox, must have died between the dates 11th March 1487-8 and 12th July 1488. See my *Lennox*, p. 70, where this is proved, and your *Lennox*, p. 304, where the fact is repeated.

† Merchiston Papers.

‡ See my *Memoirs of Merchiston*.

months after the battle of Sauchie. His pretension, though based upon nothing but the fact that the period was most favourable for his usurpation, rises at once to the loftiest pitch. Upon the 10th of the same month in which the Parliament met he obtains, under the style of Earl of Levenax, a royal commission, bestowing upon him and his son and heir, Mathew Stewart, the important custody of the Castle of Dumbarton; and by the eighth Act of the Parliament 1489, the Earl of Levenax, the Lord Lyle, and Mathew Stewart, are named as commissioners to maintain peace in the districts of Renfrew, Bothwell, Glasgow, Kilbride, and Avandale.

Yet in the summer of that same year, Dernely incurs a doom of forfeiture for being in arms against James IV.; and at that period his son Mathew, and his intimate friend and supporter Lord Lyle, hold the Castle of Dumbarton against the very government that had committed it to their keeping. It was in this rising that Lord Forbes made himself conspicuous by riding the north, with the bloody shirt of the late King displayed as the beacon and banner of insurrection. Dernely, on his way to join this nobleman, was surprised in his encampment at Tilly-Moss by Lord Drummond, and completely routed. This defeat crushed the enterprise, and "in the month of June 1489," to quote the words of Andrew Stewart, "a sentence of forfeiture was passed, in the Parliament of Scotland, against John Earl of Lennox and his son Mathew, and against Robert Lord Lyle; but the act of forfeiture itself is not now to be found in the records of Parliament, for it was upon the 5th February 1489-90 rescinded and annulled by the King and Parliament, and in consequence thereof his Majesty, upon the 6th of that month, issued a precept directed to the clerk-register, ordering him to take furth of the books of Parliament the said process of forfeiture, and to deliver the same to the said John Earl of Lennox, and to Robert Lord Lyle, and to destroy the said process in such a way that it be never seen in time to come."—(P. 192.) The whole of this proceeding proves the restless turbulence of Dernely, his utter disregard of law and order, and at the same time his great power and influence in the state.

Having thus escaped the pains of rebellion, and feeling himself more

powerful than ever, Dernely now vigorously commenced, in the face of an existing decree of the Privy Council which had silenced his claim for thirteen years, to render his dominion in the Lennox as certain as power without right could effect. It was his object to obtain complete feudal command of the whole *Comitatus*, by attaching to himself all the superiorities, patronages, and liberties of the fief; and also to effect such a compromise with the weaker parties, who had a prior right to the honours of Lennox, as might afford at least a colour of legality to the assumption he had already perpetrated.

Elizabeth Menteith had followed up the decree of obedience proclaimed in her favour by taking out brieves of division from Chancery, for the purpose of having her special share of the lands allotted by the verdict of a jury. The instrument taken upon producing her brieves, and demanding an inquest, is dated 26th of March (day after New-Year's day) 1490.\* But upon the 17th of May following she had been persuaded or concussed into a contract of excambion with Dernely, the tenor of which very plainly shows his anxiety to establish himself in a loftier position in the Lennox than was his birthright.

This curious document bears to have been concluded at Glasgow upon the 18th day of May 1490, "between a noble and mighty Lord John Earl of Lennox and Lord Dernely, and Mathew Stewart his son and apparent heir, on the one part, and Elizabeth of Menteith, the spouse of *umquhile* John Napier of Merchiston, as one of the parceners and heirs of the said earldom, and Archibald Naper her son and apparent heir, on the other part, anent the division and allotment of the said Elizabeth's part and portion of the lands of the said earldom of the Levenax, and also for her part 'of the profyt and commoditeys that mycht fall till hir, or till hir aeris, of the superiorite and tenandry of the fre tenandis of the said erledome, be wardis, mariages, relevis, courtis, eschaetis of courtis, be resoun of superiorite, profytis of blanchfermys, offices of heritage, ad-vocationis, donatouris of kirks, chapellis, presentationis of provestriis, chanonriis, personagis, chaplanriis, and otheris patronagis quhatsum-

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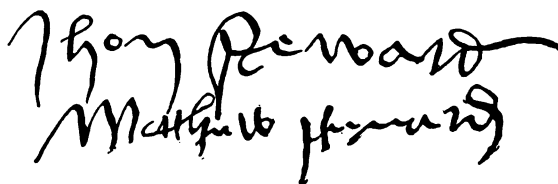
\* Merchiston Papers.

ever,' " &c. This clause, as well as other clauses in the various deeds connected with this transaction, is of the most sweeping description, and, in a territorial sense at least, involves all the highest rights, privileges, and dignities appertaining to the fief.

In consideration of this sacrifice on the part of Elizabeth Menteith, Dernely on his part grants and concedes that she shall be secured in the property of a quarter of the lands of the whole *Comitatus*, with its woods, and islands, fishings in waters and lochs, &c. &c.; and this fourth part is "to be lade and assignit hale and togidder be the self," and to be secured to her by "vigour and autorite of the Kyngis breffis of depertysing." Moreover, for the rights of superiority yielded, a separate estate of lands in the Lennox, adjacent to the quarter to be allotted to Elizabeth Menteith, is granted to her, over and above her original share. Both parties are taken bound not to part with their lands to strangers, nor to admit such into the fief; but, if constrained by necessity, or otherwise, to sell or alienate them in any manner, "that it sal be offerit ilk ane of thaim till otheris apoun resonabill and sobyr price,"—a condition much more likely to benefit Dernely than the House of Merchiston. And, finally, it is stipulated, that "the sade Erle and Mathew his sone sall, *for the favouris schawin in this concorde*, help, supple, menteyn, and defende the sade Elesabeth, and Archbalde hir sone, and thar ayres, in all thar causis leyfull and honest, and in speciale in the pessabill brukyng and possedyng of hir quarter of the Levenax, and landis before expremyt, in all things but (*i.e.* without) *fraude or gyll*." \*

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\* The *fac-similes* of the signatures of these two first *de facto* Earls of Lennox of the Dernely race, appended to this deed, will interest the reader. Mathew was he who commanded one of the divisions of the Scotch army at Flodden, where he fell, along with the head of the House of Merchiston.



The image shows two handwritten signatures in a cursive script. The top signature is 'Thom Dernely' and the bottom signature is 'Mathew Stewart'.

Their seals are also appended, bearing, first and fourth, three fleur de lis for Aubigny; second and third, a fesse cheque, surrounded of a border charged with buckles for Stewart; on an escutcheon, the *plain saltier* and roses for the co-heirship of Lennox; on the seal of Mathew a label of three points for eldest son.

These seals and all the original documents connected with this process of division are among the archives

The necessary steps to perfect this arrangement by division and appropriation according to the forms of law, were immediately adopted by Elizabeth Menteith, who, at the same time, took care that John Haldane and his son should be present and exhibit a formal consent to the process of division. But there can be little doubt that the contract of excambion of her birthright was a measure to which this lady and her son were constrained by the state of the times, and the powerful grasp which Dernely and his son had fastened on the *Comitatus*.

A *charter of excambion* was then granted to her of the lands which were the price of the rights and privileges she had yielded. This runs in the name of Matthew "Comes de Lenax," and is ratified by his father, also styling himself Earl of Lennox,—a fact which may be thus accounted for: The *charter of excambion* is dated 17th September 1490.\* The *contract*, in which Mathew is not stlyed Earl, is in May previous. Now, on the intervening 1st of June 1490, Dernely having *resigned* the Earldom of Lennox, Lordship of Dernely, &c., into the hands of James IV., in favour of his son and heir Mathew, in fee, and of himself and spouse, Margaret Montgomery, in liferent, obtained a new charter to that effect.† Hence, in accordance with the territorial principle, both father and son being in-feft in the *Comitatus*, took the title of *Comes*. But their title was *might* not *right*. Dernely resigned what had never been established in his person.

This charter of excambion grants to Elizabeth Menteith and her heirs the two *towns* (*i.e.*, lands and steddings) of Blarnavadis, easter and wester, with the pertinents, lying in the earldom of Lennox and county of Stirling, and the fishing with one boat, and nets in proportion, over the whole of the still water of the lake of Lochlomond (*lacu de Lochlomond*), excepting the fishing in the water of Leven and the firth of

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of Lord Napier. The retour of division to the lands lying in Dumbartonshire is dated 21st May 1490, and to the lands in Stirlingshire 24th May thereafter. She is styled in these deeds "Elizabeth Menteith, Lady of Rusky, ane of the portionaris of the erldome of the Levenax." She is put into possession of the lands, *nominatim* allotted to her, by the Sheriff, who, in token and name of possession, delivers a wand to her in open court.

\* Merchiston Papers.

† Andrew Stewart's History.



Lochlomond, which are reserved to the granter and his successors. The grant is in perpetuity to "a noble lady and our cousin, Elizabeth Menteith of Rusky, *for excambion made to us by her ;*" and *her right of inheritance yielded* is declared to be "the fourth part of the tenantry of the free tenants of the whole earldom of Lennox belonging to her, with the pertinents, and with the advowsons and right of patronage of the whole churches of the earldom of Lennox, with the fishing of the water of Leven and the entry to the still waters of Lochlomond, and half the island of Inchtavannach and Castle-gyle, with all the pertinents *belonging to the said Elizabeth by right of heritage in the Lennox.*" Upon this charter she obtained infeftment on the 22d September 1490.

And here let me pause to meet one of those crude and somewhat irrelevant carpings in which, turning aside from your exclusive plea for Dernely, you ever and anon indulge, for the sake of having a passing hit against the claim for "the Napiers," in their comparatively modern contention with the family of Gleneagles for the honours of Lennox,—a claim, as already stated (*supra*, p. 21) still *in petto*. At page 263 of your Lennox, we find as follows :—

The daughters (of Murdoch Menteith of Rusky) were Agnes and Elizabeth. Agnes, the eldest daughter—[the *youngest*, by your leave]—married John Haldane of Gleneagles. She obtained, 28th April 1456, a special retour as heir of the late Patrick Menteith, her brother, in Rusky. As instructed in an instrument dated 11th March 1471, she obtained a brief from Chancery upon the lands, superiorities, annual-rents, and offices of the earldom of Levenax, with the view of being served heir to Duncan Earl of Lennox. But nothing farther followed, owing to the opposition of the Chancellor, Lord Avandale. No such claim was ever made by Agnes' sister, Elizabeth ; and when subsequently, on 4th November 1473, Elizabeth was served heir of her great-grandfather, Duncan Earl of Lennox, she was only retoured in the lands and annual-rents in the earldom of Lennox ; which goes to show that she was younger than Agnes.

Excuse me, it shows no such thing. In the first place, if what you here found upon really meant an *exclusive* claim to the superiorities of the Lennox—which it does not—no argument whatever can be founded upon it ; for it was cast aside, and went for nothing. On the other hand, the title of Elizabeth Menteith, against which you quote the abortive instrument taken for her sister, was completely feudalised. But in the next place, and what is more to the point, your proposition is founded upon a

total misunderstanding of the feudal import of the documents you contrast. Both of these coparceners were at that time only taking the initial steps necessary to determine their *co-equal* heirship in general to Earl Duncan, and the relative extent, *pro indiviso*, of their respective shares of that great *earldom*. In that shape of the process, as already fully illustrated (*supra*, pp. 27-29), neither sister could make any *specific* claim; for that would have required the other sister to be called for her interest. These were only *briefes of retour*, and not *briefes pleadable*, as in a process for dividing the *pro indiviso* rights. That stage of the possession did not open to the coparceners until the year 1488, when Chancellor Avandale's *liferent* of the whole lands and dependencies of the *Comitatus* lapsed at his death. Consequently, as regards the documents you are so crudely contrasting, neither sister could claim, or *meant* to claim, anything whatever involving the contingent and ultimate heritable rights of any one of the other coparceners. In the neglected instrument for Agnes the words proposed to be *retoured* are (I quote the original Latin)—"*super terris, superioritatibus, annuis redditibus, et officiis, Comitatus de Levenax.*" The words *retoured* and feudalised in Elizabeth's title are—"de omnibus et singulis terris, et annuis redditibus, totius Comitatus et Dominii de Levenax." This latter sufficiently comprehensive clause means precisely the same thing, and has just the same force and effect, as the former; the word *superiorities*, which happens to occur in the one and not in the other, has here no specific significance. It is merely an amplification of the general terms applicable to the general right belonging to *each and all* of these coparceners, as heirs-general of Earl Duncan, extending over the whole of the *Comitatus* and its pertinents, but *pro indiviso*, until the specific shares should be allotted to each under *briefes of division*. Accordingly, it will be seen, from the deeds quoted above, that Dernely, in his contract of excambion with Elizabeth Menteith, "anent the *division and allotment* of the said Elizabeth's part and portion of the lands of the said earldom of the Levenax," which was one quarter of the whole fief, all lying together in a ring-fence as it were, and to be secured to her "by vigour and authority of the King's *briefes of departition*,"—bargained with her separately "for *her part* of the profit and

commodities that *might fall* to her, and to her heirs, of the *superiority and tenandry of the free tenants of the said earldom*, by wards, marriages, reliefs, courts, escheats of courts, *by reason of superiority*," &c. &c. as expressed in the contract already quoted. Most wise was this illustrious heiress to accept the bargain, instead of standing upon her right of primogeniture, and maintaining it specifically under a brieve of division. What could a widow lady, however wealthy and high born, have made of the principal superiorities of the Lennox, though that carried the earldom, with only one quarter of the great fief to support the honours? It would have proved a delusion and a snare to her, in times like those. As it was, she acquired the addition of a rich and beautiful estate to her and her heirs, immediately contiguous to that quarter of the Lennox which was to be allotted to her under the King's brieves of division as her acknowledged inheritance; and, moreover, "for the favours shown in this *concorde*" the powerful nobleman with whom she was dealing engaged to protect "the said Elizabeth, and Archibald her son, and their heirs," in all her vast Lennox possessions, and that (a qualification very characteristic of the times) "without fraud or guile."

And here, before proceeding to Dernely's excambion with Gleneagles, I must again pause to dispose of some disparaging comments of yours upon the claim for "the Napiers," against whom you would almost seem to entertain a special grudge. You say,—

In these and other arrangements with the Napier family, the title of Earl of Lennox is invariably *accorded* to John Lord Darnley. Had the Napiers considered that they possessed a right to the title of Earl of Lennox, they would not have conceded it to Lord Darnley without some demur or protest, no trace of which ever appears.—(P. 308.)

Again,—

In regard to Elizabeth Menteith, daughter of Murdoch Menteith, the son of Margaret daughter of Duncan Earl of Lennox, and wife of John Napier of Merchiston, *it is clear* that she was the youngest daughter, from the fact that the Napiers *looked on quietly* at the transactions which were taking place in favour of Haldane, her sister Agnes's husband, without making the slightest opposition to either candidate, or laying any claim to the dignity of Earl of Lennox.—(P. 301.)

A Daniel come to judgment! One would think you were there to

see. Why, this is little better than twaddling over history that dates *four hundred years ago!* How know you that "the Napiers looked on *quietly*"? Mayhap, though bearing it for the nonce, they were grinning as they "looked on." And as for the Napier co-heiress of Rusky and Levenax having "accorded" to Dernely the style and title of Earl of Lennox at the very time she was selling her birthright to him, *needs must*, they say, when a certain person is driving. But that she could "demur and protest" against your hero Dernely, at the same moment that she was bargaining and agreeing with him, is a confusion of ideas one would not have expected from a royally commissioned Inspector for Scotland *in rebus historicis et antiquissimis*. But to proceed.

*Excambion with Haldane of Gleneagles.*

John Haldane of Gleneagles, married about the year 1460 to Agnes Menteith, was at that time the heir of an ancient and wealthy family. His father was Sir Bernard Haldane of Gleneagles, and his mother a daughter of William Lord Seaton. In 1473, John Haldane was sent upon a mission to the King of Denmark, the father-in-law of James III., with whom Gleneagles was then in high favour. Before taking his departure, however, he obtained, as already narrated (*supra*, p. 31), a royal charter of one quarter of the whole Lennox, without any mention of the right of his wife, who remained, to the day of her death, unentered to her inheritance. This grant to Gleneagles, which was altogether subversive of the law of the *coparcenery* succession to the Lennox under the charter of King Robert III. in 1391, was the chief instrument with which Haldane worked in his long contention with Dernely, his wife's unfeudalised inheritance being, of course, a powerful subsidiary plea. The royal grant to himself was only of a *pro indiviso* quarter of the yet undivided Lennox; but he contrived, in those disjointed and lawless times, to have a few words inserted in that charter of a dubious import, but which he of course interpreted so as to suit his own object, that being in like manner *usurpation*, for it was the marked feature of the times. James II., or

his ministers, usurped the earldom of Mar. Archibald Douglas usurped the earldom of Moray, to the prejudice of the *elder sister of his wife*. The Duke of Albany assumed the title of King of Scotland, to the prejudice of his elder brother James III., on the throne. In times of great political confusion, and of many a lawless pretension, the inference which you so freely use throughout your hand-to-mouth history of the Lennox, is much too hasty, which attempts to deduce the paramount right of one party from the forwardness and activity of his claim, or the absence of all right in another from the seeming silence of his pretensions. The charter in question is a general grant to Haldane of the property and superiorities of a "*fourth part* of all and whole the earldom of the Levenax, as *first and principal* of the same." \* It cannot fail to strike any one conversant with such historical and legal antiquities that the terms "*primo et principali*," introduced into this charter, are quite inadequate legally to support the plea which Gleneagles founded upon it; in which reading, however, you support him, although, were it sound, your man Dernely would be thereby legally excluded from all right to the earldom you have bestowed upon him. Nevertheless you take upon yourself to pronounce, that "the terms *primus* and *principalis*, as applied to *Haldane*, in reference to his interest in the Lennox representation, denote the eldest and chief representative of a family." But the terms of the charter itself do not bear you out in this assumption. The phrase is ambiguous, and the use of it loose throughout. Sometimes it is *tanquam primo et principali dicti comitatus*, as if the principal superiorities of the whole fief were meant. But, then, this grant was only of a *pro indiviso* right with other coparceners over the whole *comitatus*, until divided and allotted under briefs of division. Accordingly, in other clauses of the grant, the expressions appear to be limited to a quarter, which is the subject of the grant,—"*ad dictam quartam partem comitatus ut principali ejusdem pertinentibus*." This, too, will be observed, that although the Chancellor Advandale's liferent grant expressly comprehended entire and

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\* "*Quartam partem totius et integri Comitatus de Levenax, tanquam primo et principali ejusdem*." (See pp. 93, 94, of my "History of the Lennox," where full extracts from the Latin charter are quoted from the Record of the Great Seal).

unrestricted possession of all the lands, liberties, and rights of the fief (saving the title of Earl), as fully and freely as they were previously enjoyed by the Earls of Lennox, Haldane is only required to guarantee that possession to the extent of a fourth part; and the feudal services to the Crown, which Haldane himself is taken bound to fulfil, are only "*jura et servitia de dicta quarta parti dicti comitatus, debita et consueta.*" If, as you assume, the unusual phrase "*primo et principali*" was intended to indicate the "eldest and chief representative" of the whole earldom, how came it that his suit and service to the Sovereign was limited to one quarter of it?

In his long struggle to be Lord of the Lennox, Dernely found Gleneagles a far more difficult party to deal with than the widow of Merchiston. He had now to drive his bargain with a *widower*; for Agnes Menteith had died in 1477 without having ever made up any titles to her Lennox inheritance, although she had made up titles, along with her sister Elizabeth, to their great heirship in the Menteith. The Haldanes, father and son, came at last precisely to the same terms with Dernely for their birth-right that Elizabeth Menteith had done. But it cost the *de facto* Earl of Lennox three years more of double toil and trouble to accomplish it. James Haldane, the eldest son of John of Gleneagles, proceeded, under the direction of his father, to make up titles to his mother Agnes Menteith's heritage, in the beginning of the year 1490. This he did precisely in the same general terms that Elizabeth Menteith had done in 1473; nor does his retour indicate the slightest superiority upon his part. The term of non-entry of the lands, since the demise of his great-great-grandfather Earl Duncan, to whom he serves, is stated at sixty-six years, corresponding to the interval between the date of his retour and the old Earl's death. But as between him and Dernely (her sister Elizabeth having been paid off), three-quarters of that magnificent inheritance, the Levenax, still remained *pro indiviso*, awaiting special allotment under brieves of division.

And now the Haldanes attempted a very audacious move. In the beginning of the year 1492 James Haldane took out brieves for a division of the *whole lands* of the earldom, as between himself and Dernely only!

But though paid off, "the Napiers" were not "looking quietly on." The "wedow Elizabeth Lady of Rusky" was anything but quiet. Of date 14th June 1492, she presented the following petition and complaint to King and Council, as you might have learnt from my "History of the Partition of the Lennox," (pp. 136, 137), though you are pleased to omit all notice of it in your own *rifacimento* of my narrative:—

SOVRANE LORD : Unto your Gracius Hienes, and to the Rycht Reverend noble and mychtie Lordis of your Counsale, humbly meins and shewis *your servitour and wedow Elizabeth Lady of Rusky*, that quhar (*whereas*) the lands of the erledome of Levinax was devidit of befor be your conrisable brevis of division of your chapell, and be the consent of the Erle of Levinax, Matho Stewart his sone, John of Haldane of Glennegas, and James of Haldane his sone, the landis underwritten was devidit and assignit to me for my parte of the properte of the said erledome, as autentik writtis and instrumentis of thair said consentis beris. That is to say, the landis of *Gartnes, Dalnair, Blairour, Gartquharn, Ballattis, Dowchlas, Badvow, Edinbaly, Ballaquharn, and Tumdarow*, with the half of the Ile of *Inchestavanok, Castlegile*, with the quarter of the *fischenings of Levin and Lochlowmond*, with *myllis, woddis, and pertinentis of the samyn*; in the quhilk I am in peaceable possession, and gevis soit (*suit*) in your Parliament, justice aris, and sheref courtis therefor. Notwithstanding, James Haldane has purchest of late *new brevis of division*, direct to your shireffis of Stirueling and Dumbertan, and to certain utheris shireffis in that parte, to devide the said hale erledome, *als vele my parte forsaid that is assignit to me, as the laif*, quhilk, as I understand, is *express contrair to justice*. Beseking therfor maist humbly your gracious Hienes and Lordschippes that I may have your lettres direct to your said shireffis to keip me in the said landis that is dividit and assignit to me for my parte, after the forme of the division maid thereapon; and to discharge the saidis shireffis, and shireffis in that parte quhasumevir, of the intronetting therwith, sen thai ar devidit be *the full consent of the said porcioneris*, as said is, and your gracious answer herapon at the reverence of God, &c.

Upon this petition the Lady of Rusky obtains, of the same date, royal letters narrating the cause of her complaint, and commanding the sheriffs to protect her in her possessions. Accordingly, in the subsequent division of the earldom between Dernely and Haldane, a special clause is inserted in all the deeds connected therewith, excluding from that division the quarter of the fief already allotted to Elizabeth Menteith, and fully admitting her right therein.

It is remarkable that there are some indications of this disposition of the family of Gleneagles to ignore and repudiate Elizabeth Menteith's co-equal *pro indiviso* right, with her sister Agnes, to the superiorities of the Lennox, and to usurp the rights of the Merchiston family, even in the

following century. The earldom of Lennox fell into the hands of the Sovereign by the temporary forfeiture of Mathew Stewart, fourth Earl of the *de facto* race, in 1545. The Napiers of Merchiston, as we have seen, held of those Earls the lands of Blarnavadis, Isle of Inchmone, &c. by way of *excambion* for the rights of superiority belonging to Elizabeth Menteith in the Lennox. It would appear that the then Haldane of Gleneagles, taking advantage of the confusion of the times, and the minority of Sir Archibald Napier (great-great-grandson of Elizabeth Menteith, and father of the inventor of Logarithms), had obtained a grant of Blarnavadis, &c. to the exclusion of the Merchiston family. In the year 1558, however, before the Earl of Lennox was restored from his forfeiture, and shortly after the marriage of Queen Mary to the Dauphin, that Princess issued a charter revoking the grant to Gleneagles, and reinstating the family of Merchiston in their patrimonial rights. The precept of seisin (which is in Latin) under the Great Seal of Mary is dated 14th July 1558, and narrates that the lands of "*Blairnavaidis, eister and wester, with the Isle of Inchmone, and the right of fishing over the whole of the lake of Lochlowmond, &c.*" which belonged to Archibald Napier, holding of Mathew late Earl of Lennox, and which have fallen into our hands by reason of escheat and process of forfeiture against the said Mathew, and which after the decree of forfeiture we, in our minority, had granted by charter under our Great Seal to *James Haldane of Gleneagles*, his heirs and assignees, and which lands and islands having again fallen into our hands by reason of our general revocation, made in our last Parliament, and we considering that the predecessors of the said *Archibald Napier* had obtained the said lands *in excambion* from the predecessors of the said Mathew late Earl of Lennox, and in order that they may have *regress to their first excambion*, and also because the said Archibald and his predecessors were in *no manner of way participators in the crimes of the said Earl*, but were innocent of the same, and *have in all times past faithfully obeyed the authority of our realm, even to death, and have, under the standard of our dearest grandfather, and under our own standard, in the battles of Flowdown and Pinkie, been slain*;—therefore, and for other good causes moving us,



we, after our general revocation in Parliament, have of new given and granted to the said Archibald Napier of Merchamstoun, his heirs and assignees, the said lands of Blairnavaidis, eister and wester, isle, fishing," &c.—(*Napier Papers.*) \* But to proceed with the history of Dernely's

\* The following royal mandate to the Stewart of Menteith, of date 1st October 1482, under the Privy Seal and sign-manual of James III., is preserved among the Merchiston Papers. This also affords another and earlier illustration of the fact that the Napiers did not always "look quietly on" when the Haldanes were masterfully and violently taking the law into their own hands. John Napier (the spouse of Elizabeth Menteith) is here defending a part of his own patrimonial rights, in which his only sister, Janet Napier, the wife of Sir James Edmonstone of Edmonstone, had an interest.

"James, be the grace of God, King of Scottis, till our Stewarte of Menteth and his deputies greting : Forsamekle as it is *hevily menit and complenzeit* till us be our lovetis, *Johnne Naper of Merchamstoun* and *Jonete lady Edmondestoun* his sister, that quharas, be vertew of our lettres direct to you of befor, ye enterit thaim and thar tennendis and gudis in a berne and byr perteing to thaim, oute of the quhilkis *Johnne of Haldane of Glenegas* and *James Haldane* his sone, with thar complices, *had of befor, with force and violence*, at thar awin handis castande furth the corne and oxin perteing to the said Johnne Naper and Jonete, and syne *withheld and occupiit* the saidis berne and byr ; nevertheles the sadis Johnne of Haldane and James, and thar complices, *now again* has cummyn to the samyn, and *masterfully* has tain and occupiis thaim, and *has of new castin furth thar gudis, corne and catall*, but (without) ony resoun, as is allegit, in *great lichtlying, contempt, and disobeying* of our autorite, lettres, mandmentis, and charges. Our will is herfor, and we charge you straitly, and commandis you, *zit as of befor*, that ye incontinent, efter the sicht of thir our lettres, enter the said Johnne Naper and Jonete, thar tennandis and gudis, againe to the said berne and byre ; and that ye keip, mainteine, supple, and defende thaim therin, unvexit and undistrublit be the sadis persounis, and al utheris thar complices perteing to thaim, under the pain of *deprivatioun* of you fra your office, and al uther panys and chargis that efter may follow ; and that ye suffir thaim nocht to be distrublit unto the decision of the action of summondis betwix the sadis partiis befor us and the lordis of our consale, under the pain forsaid. Delivering our lettres, be you duly execute and indorsit, again to the bearer. Gevin under our Signet at Edinburgh the first day of October and of our Regne the xxii zere. *Per S. D. N. Regis.*

This muniment confirms the account of the ancient family of Edmondstone of Duntreath, printed in the Appendix to Nisbet's Heraldry, ii. 155 ; where it is stated that "Sir James Edmondstone of that ilk married Janet, daughter of Sir Alexander Napier of Merchiston, ancestor to the Lord Napier." Sir James was the eldest son of Sir David, who was the eldest son of Sir John and his spouse Isabella Countess of Douglas, daughter of King Robert II., who grants a charter to him in these terms,—"*Joanni de Edmonston, militi, et Isobelæ comitiſſæ de Douglas ſpouſæ ſuæ, filiæ noſtræ cariffimæ.*" Thus Janet Napier's two daughters (great co-heireſſes of Boyne and Tulliallan), were great-grandchildren to King Robert II. They were alſo one generation nearer, in the collateral line, to King Robert III. ; for Sir William Edmonstone, ſecond ſon of Sir John, and uncle to Sir James, the ſpouſe of Janet Napier (by which junior line the Houſe of Duntreath was carried on), married the Princeſſ Mary, eldeſt daughter of King Robert III. Thus, the

final settlement with Gleneagles, of which the account in your Lennox is most lame and imperfect.

Some time in last century a memorial relative to the succession to the ancient Earls of Lennox was printed, with a view, never followed up, of instituting proceedings in the House of Lords in support of the claim of the Haldane family to the old earldom of Lennox. This is understood to have been drawn up by Mr Wedderburn, afterwards Lord Chancellor Loughborough. It is neither dated nor signed, and is now rarely to be met with, but a copy of the old print is among the Gleneagles papers, and another in Lord Napier's charter-chest. In this memorial a document is quoted, and said to be in possession of the Gleneagles family, which of itself might suffice to prove that John Lord Dernely did not become Earl of Lennox by right of primogeniture. For that reason, doubtless, you entirely ignore my argument upon the document in question, and shirk the whole of the important evidence it affords against your case for Dernely, as given in my History of the Lennox, pp. 107-8-9. I shall here reprint my quotation there, of the account of it as given by Mr Wedderburn, not having myself seen the original.

There is likewise *produced* a copy of the decision given by Lord Lyle and Lord Oliphant, in 1491, upon the subject; the determination of which the parties had finally submitted to them, with six other noblemen and gentlemen mutually named, who were joined with them as counsellors and amicable compositors. This deed is dated at Stirling in September 1491,—sets forth the names of the parties, and their claims, and the names of the arbiters, and that they had fully agreed and concorded that the said Sir John, and James Haldane, between and the 10th of October then next, should give up to Lord Darnly their quarter of the property of the said earldom, excepting the particular lands therein named; so that Lord Darnly would have right to three quarters of the earldom; excepting what they thus reserved to themselves, and, on the other hand, that Lord Darnly should, between and the said 10th of October next, resign and give up to the said James Haldane *all the right of the superiority and tenandry of the said earldom*. The deed is subscribed by the arbiters and their counsel, and the parties, who, it is therein said, had, of their own free will, agreed thereto, and sworn faithfully to observe and keep the same.

This was a most extraordinary award, when all the proceedings and

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only daughter of Sir Alexander Napier of Merchiston was wedded no less illustriously than his eldest son. It is curious to observe that the Stewart of Menteith who is threatened with deprivation of office if he did not exercise it in defence of Lady Edmonstone and her brother, was her own cousin by some removes. He was Sir Archibald Edmonstone of Duntreath, head of that House in the junior male line, of which that lady's husband, Sir James, was senior male representative; but they had no son.

pleas of parties are considered. It is dated more than a twelvemonth after Dernely had purchased from Elizabeth Menteith all her right to the superiorities and freedoms of the earldom; and about eighteen months before Haldane raised (as will appear in the sequel), a new summons of reduction of Dernely's false service in 1473, and about two years before he gave up all his right of superiority in the Lennox to that nobleman, precisely on the same terms that Elizabeth Menteith had done. Assuming the accuracy of the Gleneagles Memorial, which in that respect there is no reason to doubt, it certainly affords another conclusive argument that Dernely was not by right of blood Earl of Lennox, and that he had entirely given up his plea of *primogeniture* through his grandmother, the lady Elizabeth of Lennox. Lords Lyle and Oliphant were his particular friends. Lyle had even been his companion in the revolt for which Dernely incurred a temporary forfeiture in 1488. At the very period when this decree-arbitral is said to have been given Dernely sat in Parliament as *de facto* Earl of Lennox. If also *de jure* Earl, is it conceivable, after all the uneasiness which he had suffered in his possession of the honours, after the vexatious litigiousity of John Haldane, kept up for about twenty years, after his own recent forfeiture and restoration, and having the fief now open to him, and unburdened by Lord Avandale's liferent, that his most intimate friends, the matter being in their own hands, would, instead of clearing his just right to the earldom, and silencing opposition for ever, have pronounced a decision which only rendered confusion worse confounded. Perhaps the real spirit of the decree-arbitral was, that Lord Dernely should *use his own discretion* as to the assumption of the title of Earl of Lennox, that Haldane should deliver up to Dernely his, Haldane's, quarter of the *Comitatus*, with the reservation of so much land as might suffice for the estate of a private gentlemen, but that Haldane was to have "*all the right of the superiority and tenandry of the said earldom,*" if, under such circumstances, *he could make the grant available.*

As already narrated, it was in the beginning of the year 1492 that brieves were surreptitiously taken out in the name of James Haldane, Agnes Menteith's heir, for division of the *whole earldom* as between him

and Dernely alone. It was upon the 14th June of that same year that Elizabeth Menteith, to check this assumption, obtained letters under the Privy Seal of James IV., quoted before (*supra*, p. 68), for the protection of her own inheritance, which she had already settled with Dernely. Accordingly, upon the 19th of the same month, Sir John Haldane, the father of James, appears in the Sheriff-court of Dumbartonshire as procurator for his son, and produces *briefes of division* of the remaining *three quarters* of the *Comitatus*, as between his son James Haldane (for whom he was procurator), and Dernely, with the express reservation and protection of the other quarter previously allotted to Elizabeth Menteith. This has been supposed finally to have settled the partition of the Lennox among the heirs-general of Earl Duncan. But there is a process, the date of which, as shall be immediately shown, has hitherto been mistaken, which certainly occurred subsequently to the briefes of division above-mentioned. It is a new summons of reduction, the true date of which is 2d February 1492-3, of Dernely's service already reduced, but upon which alone he had again resumed the honours. This is called in Court on the 15th of June 1493. It is there delayed of consent of parties until October following. In the interval, however, "there is a commission, dated 8th July 1493, from John Lord Dernely, therein designed Earl of Lennox, to Mathew Stewart, his well beloved son and apparent heir, and to John Stewart of Henrieston, also his son, to go to the kirk of Drymen on the 9th of July then instant, and to *commune and agree* with John Haldane of Gleneagles anent the avail of the earldom of Lennox."\* This state of matters requires to be cleared.

John Haldane's first and successful attack upon Dernely's false service of 1473, to the prejudice of his letters of protection during his absence abroad, has already been discussed. It is remarkable that the date of this second and very important summons of reduction has hitherto, in all modern dealing with the subject, been entirely misapprehended. In Lord Loughborough's case for Gleneagles it is *particularly noticed* and founded upon as of date 1475, and as if part of the original proceedings against

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\* Andrew Stewart's History, p. 186. But this historian was not aware of the new process of reduction in 1492-3.

Dernely in that year. Various transcripts of the same deed, which I have seen among the Gleneagles papers, have also assigned this erroneous date, 6th February 1475. A proper study of the original, however, which I alone have bestowed upon it (for you shirk it altogether), leads to a very different conclusion. 1. It is a summons of reduction under the Great Seal obviously of James IV., for it is dated 6th February and *fifth year of our reign*. Now, 1475 was in the reign of James III., and certainly not the fifth year of that reign. 2. The deed refers to Haldane's embassy, in 1473, as having occurred in the previous reign; the date of the deed, therefore, must be the fifth year of the reign of James IV. 3. Haldane's lady, Agnes Menteith, was certainly alive in the year 1477; but this deed mentions her as being now dead. 4. James Shaw of Sauchie, Sheriff of Stirling, is also therein named as dead; and it is well known that he did not die until the year 1479, having been killed in May of that year at the siege of Dunbar Castle, by the same cannon shot that cut off Sir John Colquhoun of Luss and Sir Adam Wallace of Craigie. Unquestionably the date of this summons of reduction is 6th February 1492-3, being the fifth year of the reign of James IV.\*

Let us now attend to the tenor of this summons. It is raised by John Haldane in his own name and in that of his son James, against the *very service* which had been cassed and annulled by letters under the Privy Seal of James III. in 1475. But it is of a more comprehensive nature, including a claim of damages against the inquest who sat upon that service, proceeding, however, upon the very pleas of irregularity and partiality which Haldane had formerly used with success. It is raised not against the *Earl of Lennox* but against *John Lord Dernely*, who is specially summoned under that minor title. The case is called in Court upon the 15th June 1492; but it is noted on the process that, of that date, "the present cause between *Lord Dernely* and his son, and the laird

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\* "*Datum sub testimonio magni sigilli nostri apud Edinburgh, sexto die mensis Februarii anno regni nostro quinto.*" On the back are indorsed the executions. It is served upon Dernely under that minor title, and not as Earl of Lennox. Below is written: *xv. Junii, presens causa inter Dominum Dernely et suum filium, et Dominum de Gleneagles et suum filium, de eorum consensu continuatur ad viii. Octobris proximo futuri,*" &c. But Haldane's contract of excambion with Dernely, dated in the interval, settled the matter. (See my History of the Partition of the Lennox, pp. 78, 88, 89, 90.)

of Gleneagles and his son, is continued of consent of parties to the 8th of October following." The link afforded by the accurate date of this process completes the history of the settlement of this great fief, *per fas et nefas*, in the person of John Lord Dernely; for it will be observed that it was in the intermediate July, between the calling of this cause, and the date to which it was postponed, that Mathew Stewart is commissioned by his father to go to the kirk of Drymen, and drive a bargain with their pertinacious opponent Haldane. In that same month of July, accordingly, Haldane signs the indenture, which forms a perfect *pendant* to that agreed to by Elizabeth Menteith and Archibald Napier in the year 1490. It names the lands which are to compose Haldane's quarter of the fief, and adds certain other lands, in excambion, "for the hale and full *contentatioun* of all the rycht, clame, and interest of the said James, his ayres or assignees, or that may be had in or to the properte or the superiority of the said erldom, or profyt of the samyn," &c. \*

This concludes the long delayed "Partition of the Lennox" among the co-heirs of Earl Duncan, leaving the youngest but the most powerful co-heir in the undisputed *de facto* possession of the Lennox and its honours.

Haldane's last attack, in 1493, upon Dernely's false service of 1473, entirely sets at rest the question of a new creation (assumed by most historians) of the earldom in favour of that nobleman in 1488, or indeed at any other period. Had such ever occurred, Haldane would here have raised a bar *in limine* of his own pursuit; for, upon the hypothesis of this special grant, Dernely would not have been bound to answer to a summons which did not cite him competently, under the style and title of the new creation. It also proves, that when Dernely resigned the Lennox into the King's hands in the year 1490, for a new charter to himself and his son in fee and liferent, he had done so most irregularly and ineptly, for there was nothing feudally in his person to resign. The process of 1492-3 is directed solely against Dernely's service and infetment of 1473 and its abettors, because upon *that basis alone* Dernely had resumed the honours. Had any *supervening* service or titles existed in

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\* Gleneagles Papers.

the person of Lord Dernely, Haldane must have attacked those; or at all events, he would not have been so absurd as to attack titles made up in 1473, but which had not only been *reduced* but *superseded* by a new creation. Andrew Stewart (who was not aware of this process in 1493) expressly states the service of 1473 as the basis of all the Dernely titles to the Lennox; and that painstaking family historian never discovered any other among the carefully preserved papers of that family. But he does not record, and does not seem to have known, that that service, and all that followed upon it, was entirely swept off by reduction in 1475.

And this leads me to observe, that, after the fashion of our modern novelists, who go swimmingly on for a time, but bring an ill-digested plot to a lame and impotent conclusion, you wind up your Quixotic defence of the injured house of Dernely, without attempting to dispose of, or even to face, two most important documents, either of which is destructive of your case of primogeniture for John Lord Dernely. You conclude that case with the following crude and irrelevant paragraph:—

In all these arrangements between the Earls of Lennox and the Haldanes, as in those with the Napiers, the title of Earl of Lennox was accorded to Lord Darnley; and though the Haldanes, at the outset of their succession, made a claim to be senior co-heirs, they never claimed or assumed the dignity of Earl of Lennox, which was the highest distinction of the right of seniority.—(*Fraser's Lennox*, v. i. p. 311.)

But what of the two last documents which I have just brought to bear upon this history of the Lennox? What of that strange and impracticable “award,” obtained by Dernely from his own most intimate and powerful friends Lords Lyle and Oliphant, to the effect that, abandoning for ever his original plea of the primogeniture of his grandmother Lady Elizabeth of Lennox, over her sister Lady Margaret (which is your case for him), he should give up to Haldane all the superiorities of the Lennox in exchange for nearly the whole of his opponent’s lands, and the undisturbed privilege of sitting among the Earls in the councils of the nation? What of that no less complete extinguisher to your case for Dernely, Haldane’s *renewed* process of reduction (not merely at the “outset” of his contention, but so late as 1493, the eve of its conclusion) of Dernely’s false service in 1473, coupled with the additional screw of an action of

damages against the packed jury that served him. Both of these productions you must have found in my History of the Lennox, where they were produced and critically commented on for the first time.\* But you have not dealt at all with either of these formidable documents! As unable to face them as was that false knight Dernely to lift the gauntlet which Gleneagles once more cast down, in 1493, against his pretension of primogeniture, you quietly give them the go-bye altogether, and stick to your assumption. I will not say that in all this you ride *roughshod* over the truth of History. But certainly you have done your best to efface the very memory of researches more original and deeper than your own, by passing gingerly and "delicately," like the King of the Amalekites, over dangerous ground, in red velvet slippers embroidered with gold. What wonder, then, if "The Lennox, by William Fraser," meet with the fate of Agag.

It is no discovery of yours that the two co-heiresses of Rusky and Lennox, and their heirs, throughout the transactions which finally settled the complicated disputes which had kept this great fief feudally unentered for so many years, "accorded to Lord Darnley the title of Earl of Lennox." That fact was the basis of this gigantic bargaining, and lies on the surface. Indeed such a settlement was inevitable from the first; and had it not been for the long endurance of the anxiously fortified liferent possession bestowed (no doubt nimiously) by James II. upon his Chancellor, the illustrious bastard of the Lennox,—as to whose claim, but for the bend sinister, to be ninth Earl of "Lanox of Auld," there could be no question,—some such extrajudicial arrangement in favour of the House of Aubigny and Dernely must have taken place soon after the demise of Duchess Isabella. It was not in *natura rerum* of those troubled and stormy times that either of the baronial houses of Merchiston or Gleneagles, whichever of the two might be the elder of these coparceners, should be able to "bell the cat" with one of the most warlike, powerful, and turbulent nobles who then ruled Scotland, and made a puppet of their Sovereign. Moreover, his own inheritance

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\* See *supra*, p. 71, and my "Lennox," pp. 88, 89, and 108-9.



of the enormous territory of the Lennox was one-half of the whole, being double that of the two ladies of Rusky taken together. The wonder is, that in such times as the close of the fifteenth century right could still prevail so far over might as to enable these ladies and their heirs to *hive off* from the great fief, each carrying one quarter of it along with them. After these excambions were settled, and upon the territorial principle that carried the honours, Dernely's title as Earl of Lennox became impregnable. The chief superiorities and privileges of the *Comitatus* were all expressly yielded to him under a highly onerous contract, and while the territorial principle of titles of honour still prevailed in Scotland. No doubt Lord Mansfield, in his judgment in the Sutherland case, gave out his celebrated heterodox *dictum*, viz.,—"With all due deference to the author of the case,\* I am now satisfied there is no foundation for his territorial principle. It certainly does not now exist, and no man living can say when it did. It clearly must have ceased before 1214, when lands came *in commercio*, and adjudication went against them." But it was more than two centuries after the date here assigned as the period when territorial honours ceased that John Lord Dernely, and his son Mathew Stewart, both at the same time styled themselves Earl of Lennox, clearly because one was *fiar* and the other *liferenter* of the *Comitatus*. This peculiarity can be explained only upon the territorial principle; and, indeed, the example finds its prototype in an age when even Lord Mansfield admitted that dignities were purely territorial. Sometime in the twelfth century there existed together Alwin Earl of Lennox *senior*, and Alwin Earl of Lennox *junior*, father and son.† But while the territorial feeling of the age, as well as its lawless turbulence, all operated in favour of Dernely's usurpation, the question remains, whether, in thus conceding their tailzied right of inheritance to a junior coparcener, the ladies of Rusky had *legally* divested themselves and their descendants for ever of all right and title to the honours of Lennox? It is not that the whole lands of the *Comitatus* changed hands, carrying with them all their territorial privileges. This great inheritance had

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\* Lord Hailes' famous case for the Countess of Sutherland.

† See my "History of the Lennox," p. 2.

devolved upon several co-heiresses under the tailzied charter of King Robert III. in 1392, given out in terms of the contract of marriage of his younger brother Albany with Isabella, heiress of the Lennox, and fell to be parted among them. This was actually in the course of being accomplished by "vigour and autorite of the Kyngis breffis of deper-tysing." In this state of matters it was that one of these coparceners purchased from the remaining two, in very general terms, all their interest in the chief superiorities and patronages of the fief, without any more express reference to the title of Earl. Certainly there never was a case in which the ancient and now obsolete principle of territorial honours appears more naked and meagre for operating as a conveyance of such a dignity. Then, this transaction did not pass through the Sovereign, as was the custom in such territorial transferences. It did not proceed upon a resignation of the whole into the hands of the Crown, followed by a regrant to the purchaser. Dernely, after having been compelled to drop the dignity he had usurped, and to leave it in abeyance for thirteen years, resumed it *ex proprio motu*, upon the very same basis that had been judicially declared null and void by King and council, *bargained* for the rights of superiority belonging to the other coparceners, and that piecemeal and at long intervals, still clinging to the usurped title of Earl, and then resigned that which was not legally or feudally in his person, for new charters to him and his heirs of the earldom and its honours.

Now, although Lord Mansfield may have erred in his antiquarian and historical opinion, most unquestionably the House of Lords, under his distinguished direction, have ruled that circumstances far less equivocal than the *species facti* of the case for Dernely cannot be listened to as founding an argument for the transference and transmission of a peerage even in those ancient times. There was a finding embodied in the Sutherland decision very important to the modern dispute, and now *sleeping process*, between the families of Merchiston and Gleneagles. It was adjudged, "that none of the charters produced affect the title, honour, and dignity of Earl of Sutherland, but operate as conveyances of the estate only." But these charters, some of them in the fourteenth

and fifteenth centuries, were complete grants of the whole *Comitatus*, executed in the most formal and legal manner, through the intervention of the Sovereign. They were charters conveying, in the natural line of succession, *totum et integrum Comitatum de Sutherland, &c., cum pertinentibus*, and always proceeding upon a resignation into the hands of the Crown, who gave out the new grant. Lord Mansfield, however, laid down the law, which was ruled by the House, that such charters were only to be considered as conveyances of the estate, having no application to the dignity.

If, then, either of the two co-heiresses of Rusky had been seised in the whole *Comitatus* of Lennox, and had resigned *totum et integrum dictum Comitatum cum pertinentibus*, including every right of superiority and patronage belonging to it, in order to vest the same in Dernely, the House of Lords have declared that such a transaction must be held to have operated as a conveyance of the estate only, without affecting the title, honour, and dignity of Earl of Lennox. But no such feudal conveyance occurred in the case of these co-heiresses. They resigned nothing into the hands of the Sovereign in favour of Dernely. They accepted a price for every right or interest they might possess in the superiorities and privileges of the fief; and, whatever their own understanding in the matter may have been, and however onerous the transaction among the contracting parties, it cannot now be doubted that the House of Lords would deny to those *Contracts of Excambion* the legal effect of operating as a conveyance of the dignity.

This judgment in the case of Sutherland,—an occasion so important, after a discussion so profound, and under the direction of a Chancellor so eminent as Lord Mansfield,—rears the question of the relative ages of Elizabeth and Agnes Menteith into one of great consequence in the Lennox case. For if the charters of excambion, which Lord Dernely elicited from those co-heiresses in order to fortify his predetermined usurpation, be pronounced totally inadequate to have conveyed away the honours of the fief, it can be very distinctly proved that the right is still in the representatives of one or other of those ladies, whichever can be proved the senior of the two. But that fact is still *in nubibus*, and

not within the purview of this Epistolary Review of "The Lennox, by William Fraser."

The Dernely branch of the divided *Comitatus* obtained new charters of the Lennox and its honours. "It appears," says Andrew Stewart, "that Mathew Earl of Lennox, sensible of the distinctions between the destination of the lordship of *Dernely*, received by grant from the Steward of Scotland, in the year 1361, and the destination of the lands composing the earldom of Lennox, and the title or peerage of Earl connected with those lands, obtained, on the 25th January, in the same year, 1511-12, a separate charter from James IV. of the earldom of Levenax, lordship and lands thereof, and the office of sheriff of the whole county of Dum-barton; which premises are declared to have belonged, and to belong at the date of the said charter, to the said Mathew Earl of Lennox, heritably. But in this charter of the earldom of Levenax the lands are not given, as in the charter of the lordship of Dernely, to Mathew Earl of Levenax, and *his heirs-male*, but to Mathew Stewart Earl of Levenax, and his *heirs-general* ('heredibus suis,') which is repeated in several parts of the charter, without any indication of a limitation to heirs-male. This destination has probably been owing to the circumstance that the ancient investitures of the earldom of Levenax had been in favour of heirs-general."\* Unquestionably it was owing to the fact that the basis of Dernely's assumption of the earldom was no special grant but the charter of confirmation by King Robert III. to Earl Duncan in 1392, containing an ultimate substitution of the tailzied fief to the heirs-general of that Earl, two branches of which destination, senior to his own, Dernely had bought off.

These honours brought no good fortune to the race of Earls who succeeded the usurper. That nobleman was the only one of them who died a natural death. Mathew, the second Earl of that race, very soon after the above-mentioned renewal of his titles, died in harness. He remained firmly attached to James IV., and at Flodden commanded, with the Earl of Argyle, the right wing of the Scottish battle. There

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\* Andrew Stewart's History, p. 217.

the daring but unlucky blood of Dernele and D'Aubigny once more stained a disastrous field ; for alas,

Stanley broke Lennox and Argyle,  
Though there the western mountaineer  
Rushed with bare bosom on the spear,  
And flung the feeble targe aside,  
And with both hands the broadsword plied—  
'Twas vain !

Mathew Stewart was succeeded by his son John, third Earl of that race, who was killed during the minority of James V. in the skirmish near Linlithgow, which occurred 4th September 1526. The young King hurried to the spot, but was too late to save Lennox. He found Arran mourning over his body with these words,—“The wisest man, the stoutest man, the hardiest man, that Scotland ever knew, is slain this day.” His son and successor was Earl Mathew, the father of the ill-fated consort of Queen Mary. This Earl survived his son (the trite details of whose miserable fate you record as if just discovered), and was killed at Stirling on the 4th of September 1571, when the earldom merged in the Crown.

In the year 1572 new charters of the earldom were granted to Charles Stewart, the King's paternal uncle, and his heirs-male. He died in 1576, leaving only one daughter, the unfortunate Arabella Stewart. The earldom was then bestowed, in 1578, upon Robert Stewart (second son of John, third Earl of that race), who very soon relinquished it in favour of his brother's son, the celebrated Esme, Lord of Aubigny (who had been reared in France), and Robert became Earl of March instead. Esme got the earldom of Lennox in 1579, and in 1581 it was erected into a dukedom in his favour. The honours again merged in the Crown, when Charles, sixth Duke of Lennox and fourth Duke of Richmond, dying without issue, King Charles II. was served to him as nearest collateral heir-male. This monarch then bestowed the honours of Richmond and Lennox upon his natural son by a French lady, from whom the modern Dukes of Richmond and Lennox, in whose more gorgeous shield the plain saltier gules, cantoned with its four roses of the same

colour, carried at the crusades by "Lanox of Auld" for Saint Andrew and Scotland, is no longer to be seen. *Sic transit.*

Elizabeth Menteith, of Rusky, Lennox, and Merchiston, being advanced in years, resigned in 1507 her great possessions in favour of her son Archibald Napier, who subsequently, upon his own resignation, obtained a charter under the Great Seal, dated 21st May 1509, incorporating her estates in the Lennox and Menteith to be held in free barony, called the barony of "Edinballinaper," modernized "Edinbellie Napier," a title and barony retained in the family of Merchiston for two hundred years, and after it was ennobled for the loyalty that ruined it at last. The lady of Rusky survived her husband, John Napier, third of Merchiston, for nearly twenty years. He appears to have lost his life at the battle of Sauchie Burn, in the cause of his unfortunate sovereign James III. In a charter from that monarch, dated less than a twelvemonth before the battle, John Napier is designed our beloved household squire, and by the expressions in the retour of his son and heir the period of his death may be traced to the very day of that disaster; but there is no trace of him beyond that date. He was the eldest son and heir of Sir Alexander Napier, second of Merchiston, one of the most distinguished and blameless statesmen and high officials of the household throughout the troubled reigns of James II. and III. But of this last more anon, when I come to rescue the Heraldry of the Lennox from your crude and cruel hands; for you have made a sad hash of those illustrious "ensigns armorial," as of some others, in your golden chronicles. His successor, the spouse of Elizabeth Menteith, is repeatedly mentioned, during a period of many years, commencing before the death of Sir Alexander in 1473, as one of those chosen, *ad causas et querelas audiendas in Parliamentis*,—a committee of Parliament which necessarily comprehended a selection from the leading and ablest men of the kingdom. His name also frequently occurs in the *Acta Dominorum Concilii* as one of the Lords of Council to whom, before the establishment of a Court of Session, the supreme jurisdiction of the country was entrusted. In these important legislative and judicial functions he seems to have supplied his father's place when that statesman

was abroad on the public service, and also after his death. He was at various times chosen provost of Edinburgh, as both his father and grandfather were before him. It is a notable instance of the high estimation in which the heads of the house of Merchiston were held four hundred years ago, that three of them, in immediate lineal succession, repeatedly held that responsible office during a period of half a century, and in times which, though sadly turbulent and unlettered, are still regarded as having been highly auspicious to the growing consideration and improvement of the city of Edinburgh. John Napier was spared to arrange a marriage between his eldest son and heir, Archibald, and Catherine Douglas, daughter of Sir William Douglas of Whittinghame, and his wife dame Margaret Fleming, from which alliance, worthy of both houses, still lineally descends that of Merchiston, ennobled in 1627 in the person of the eldest son of the inventor of Logarithms.\*

The "Lady of Rusky" kept her enormous wealth well together, and managed her estates and family with great judgment and prudence during the twenty years of her widowhood. Her son and heir, Archibald, fourth of Merchiston, belonged to the household of James IV. at the very commencement of his reign, as appears by letters under the Privy Seal of the young sovereign, in favour of "our lovit *familiar squiar*, Archibald Napar of Merchamstone," dated 7th February 1488-9. There is also a charter under the Great Seal of the same monarch, dated 22d February 1494-5, confirming a charter of mortification, dated 9th November 1493, for support in perpetuity of a chaplain (*unius capellani perpetui*), at the altar of *St Salvator, within St Giles' Church, Edinburgh*, granted by Archibald Napier of Merchamstoun, with consent of Elizabeth Menteith, Lady of Rusky, his mother, to pray for the souls of the Kings, James I., II., III., and IV.; and of the deceased Sir Alexander Napier of Merchamstoun, Knight, grandfather of the mortifier; and of his grandmother,

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\* Among the family papers there is an indenture, dated on the last day of July 1484, between Dame Margaret Fleming, the spouse of, and executrix to, *umquhile* Sir William Douglas of Whittinghame, Knight, on the one part, and Archibald, son and heir-apparent to John Napier of Merchiston, and Elizabeth Menteith of Rusky, and their procurator, on the other part, relating to money due to the said John Napier for completing the marriage between his son Archibald and Catherine, daughter of the said Sir William Douglas of Whittinghame.

Elizabeth Lauder, Sir Alexander's spouse; of his father and mother John Napier of Merchamston and the said Elizabeth Menteith; and also for the souls of himself and his wife, Catherine Douglas. Of the same date as this loyal and pious memorial, in which the dead and the living are curiously commingled, a charter under the Great Seal is granted to "Elizabeth Menteith of Rusky, and Archibald Naper of Merchainestoun, her son and apparent heir," of the lands of *Over* and *Nether* Merchiston, lying within the shire of Edinburgh, along with the lands called the Poultry (*Pultre*) lands, to which was attached the territorial right to the royal office of King's poulterer,—"*officio nostro Pultrix.*" These lands, with their funny concomitant honour, were acquired by Sir Alexander Napier (John of Rusky's father) while holding the higher and more onerous offices of Royal Comptroller, Vice-Admiral of Scotland, and Master of the Household, in the reigns of James II. and III., and became incorporated with the barony of *Over* and *Nether* Merchiston.\*

Elizabeth Menteith died not long before the 23d October 1507. She was spared the misery of Flodden. It is trite history how the devoted barons and gentry of the Lothians followed *en masse* their sovereign to that fatal field in 1513, and were conspicuous in the very centre of the battle. The Earl of Bothwell led these barons, and "rich burghers of the deep," who were placed immediately in the rear of the King's division, where they fought, and fell, in vain. Among these was Sir Alexander Napier, baron of Merchiston, and of "Edinbellinaper," the grandson and heir of the Lady of Rusky. And his son again, also Sir Alexander, (whose mother was Annabella, daughter of Sir Duncan Campbell of Glenorchy, likewise slain at Flodden), fell at Pinkie in 1547. (See *supra*, p. 69). This last loyal worthy was the grandfather of great John of Logs, time-honoured Merchiston, who was born in 1550, his boy father,

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\* The duties which this royal office seems to have involved were performed by deputy. It is thus described in the royal charter of the Barony of Merchiston, 1512 :—The lands of Merchainestoun, "*cum castro, fortalicio, manerio, ortis et pomariis earundem ; unacum officio Pultrix, per ipsum, et heredes suos, eorumque deputatos ministrando.*" The great Napier sold these lands (described in the charters as "lying near the village of *Dene*, in the shire of Linlithgow"), and the office *Pultrix Regis*, to William Nisbet of the Dean for 1700 marks, in 1610, from whom they have passed into the family of Learmonth of Dean. The office has died out, and is buried in the "Dean Cemetery," with the "Dean Bridge" for its obituary monument.



Sir Archibald, having only just completed his sixteenth year at the period of that eventful birth! \*

“ The knights’ bones are dust,  
And their good swords rust,  
Their souls are with the Saints, I trust,”—

but the memory of the King of Numbers will outlive the heterogeneous monuments of his native town, where there is none to him.

“ Where did they lay  
His bones, distinguished from our common clay  
In death as life? Are they resolved to dust,  
And has his country’s *granite* nought to say?  
Could not her quarries furnish forth one bust?  
*Did he not to her breast his filial earth entrust?*  
*Ungrateful Scotia.*”

The *R. S. E.*, however, has paid him this graceful compliment.



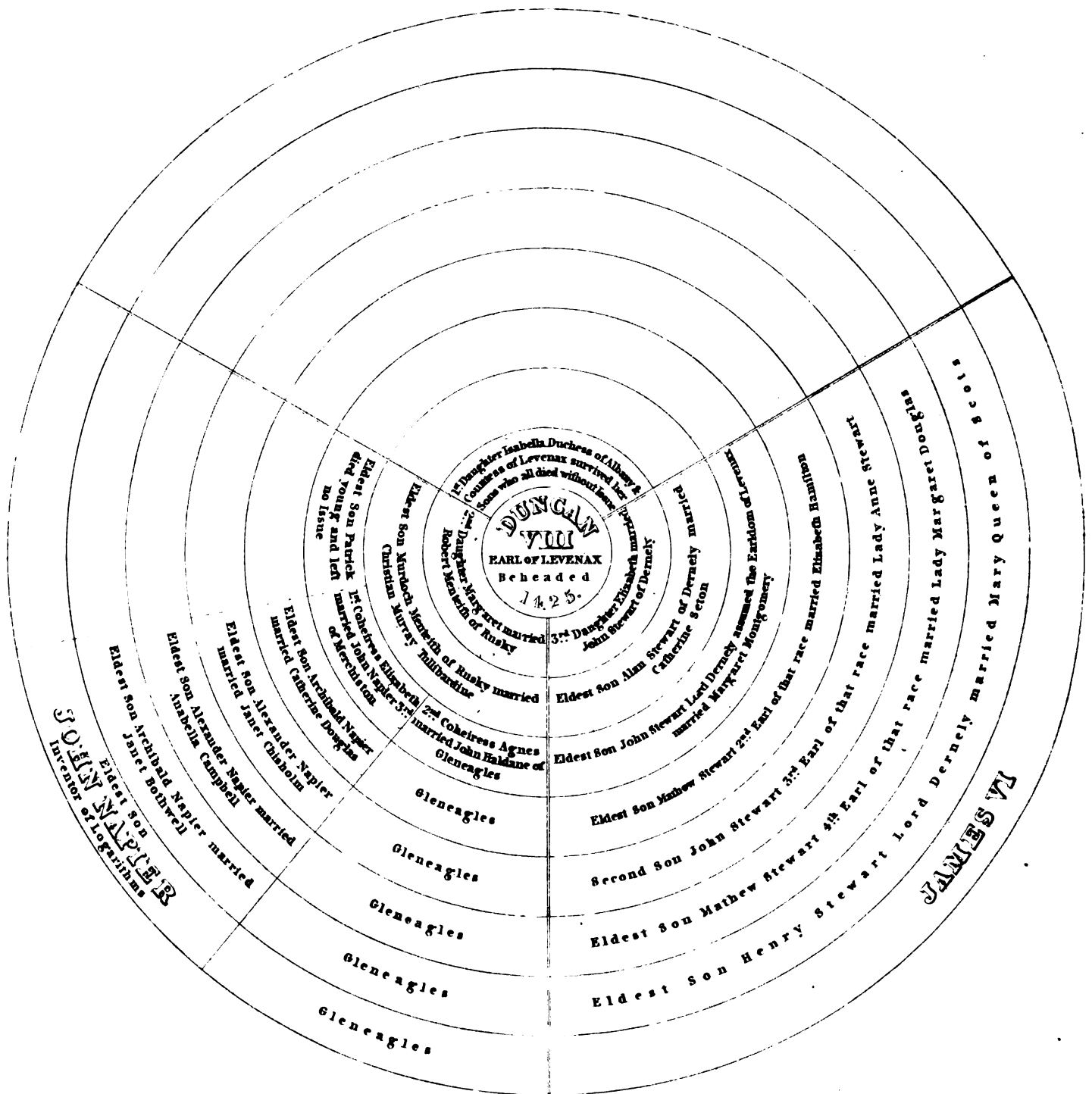
\* James V. granted his letters of licence, in 1534, to “our weilbelovit Alexander Napar of Merchamstoun, to pass furth of our realm, be sey or be land, for fulfilling of his pilgrimage at Saint Johne of Ameis, in France,” for three years.—(*Napier Papers*). At the end of that period the licence was renewed, because,—“We are surlie informit that the said Alexander is vesiit be the hand of God, and *fallin in the feberis*, quarfor he may not travale for to cum hame in this realme for danger of his liff.” But, in those disastrous days, the absence of an influential baron, on whose loyalty and counsel the King could well rely, was not to be prolonged. The following urgent letter, “*redonavit Merchistonium Diis Patriis*,” but not “*Italoque Cælo*.” He survived, however, to be knighted, and to die in harness, as his father had died:—“Traist Freynd we grete zou weill. Forsamekill as oure Perliament is continewit to the ferd day of November nixt to cum, and all our Baronis ar ordanit to comper in the samyn, for tretting and concluding upoun grete materis concerning the weill and honour of us, oure realme and lieges, and it is oure will nochtwithstanding ony oure licence grantit to zou of before, *all excusatioun postposit*, that ze in speciall comper in oure said Perliament the said day, for zour avyss and counsale to be had tharein. Oure will is herefor, and we pray zou effectuislie, and als chargis, that incontinent efter the sycht hereof, *all excusatioun cessing* as said is, ze cum hame within this oure realme, and comper in oure said Perliament the said day and place personalie, to the effect forsaid, as ze will ansuere to us at zour uter charge. Subscrivit with oure hand and under oure signete, at Edinburgh, the first day of August, and of oure regnne the xxvi yeir.”—[1538].

“To our weilbelovuit freynd the Lard of Merchaymstoun.”

*James V.*

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## GENEALOGICAL SCHEME



Shewing the PHILOSOPHER'S Representation of DUNCAN VII Earl of Levenax, and his collateral Relationship to JAMES VI of Scotland.



*Armorial Bearings of the Earls and Dukes of Lennox.*

I have now rescued my "History of the Partition of the Lennox," and reviewed your Case for John Lord Dernely. The Genealogical scheme with which I close that part of my Epistolary Review is taken, as you will perceive, from the point of view of "The Napiers," as regards the primogeniture of Elizabeth Menteith of Rusky over her sister Agnes. But that, as already stated, is still a moot point, at present *in pendente* between Merchiston and Gleneagles, and quite irrelevant to your entirely new Case for the *de facto* Earl of Lennox of the Stuart line. In so far as that is concerned, I am ready to uphold the foregoing scheme against a world in arms.

"The Lennox, by William Fraser," is your *Ashby-de-la-Zouche*, or rather your Field of the *Cloth of Gold*. From your magnificent pavilion, as champion of Lennox-the-New, you challenge and await all comers, dallying with high-born dames, and defying the prowess of hostile knights. I am so bold, however, as to enter your marshalled lists, to do battle as the *Desdichado* of Lanox-of-Auld, disinherited for the time being by the Knight Hospitaller of "The Historical Houses of Scotland." Your *cri de guerre* is "*Avand Dernlie!*" Mine is "*Desdichado to the rescue!*" In this encounter, I mean to claim not "arms of courtesy." I disdain touching your shield with the reverse of my lance. With the sharp end, *à toute outrance*, I prick that shield of grotesque heraldry, so

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\*. The above armorial shield is from the charter-seal of Malcolm V., Earl of Levenax, of the old race, preserved in the Chapter House at Westminster. This was the friend of King Robert Bruce, and the same who died at Halidon Hill, 1333.

defiantly displayed in the centre of your heraldic title, the pure, unengrailed, unquartered, unimpaled, red-cross of the *Levenachen*, cantoned with its four roses *gules*, but *not* as it was carried at the crusades. For, lo! you have crowned it with the gorgeous strawberry leaves of a modern dukedom! Shade of Godfrey de Bouillon! A device as incongruous as would be that of a three-cornered, gold-laced, cocked-hat, upon the head of a naked man, wreathed and cinctured *proper*, as "wild in woods the noble savage ran."

Yet how enchanting is the *coup d'œil* of that armorial *drapeau*! What a *luxé* of Lennox roses sowed all over it. Every letter of the word Lennox with a rose in its button-hole! Every corner garnished with the red rose of Levenax! And there, reposing, as it were, on a bed of Lennox roses, we descry the name of the author of Lennox-of-New, pillowed on the illustrious ensigns armorial of Aubigny, Lennox, and Menteith! I dare not trust myself to dwell longer on the seducing scene, enervating as the bower of Armida. And so, *to arms*! But, oh! *largesse*, *largesse*, good public, or the disinherited knight will be left without a *bezant* or a *zecchin* to pay his armourer withal.

Your golden chronicles of these historical houses are all essentially and profusely (though not always profoundly) armorial. It could not be otherwise. Without the shields of chivalry, without the tinctures of heraldry—*or*, *argent*, *gules*, *azure*, *vert*, *purpure*, and *sable*, what would be your historical records? "A world without a sun." But the tabard does not make the herald. There is heraldry and heraldry. I have said before, and must here repeat it, that in your latest work you not only have written the History of the Lennox wrong, but have committed high treason against its Heraldry. It presents the strangest possible *melange* of false heraldry, and true heraldry. The explanations in your Preface, which mystify without explaining, and which you do not venture to illustrate pictorially, point to a marshalling of arms that can be shewn to be *false* heraldry. On the other hand, those beautiful pictorial illustrations of the "Heraldry of the Earls and Dukes of Lennox," at the end of your first volume, are all *true* heraldry. But they are mine, not yours! They have been conveyed from my Lennox "lucubrations"

to your own, after leave asked and not given. But of this afterwards.

Before proceeding to the heraldic illustrations, however, I must crave leave to quote largely from your Preface. I have already extracted some paragraphs from your prefatory explanations as to how it was you came to negotiate for Auchencruive "the ensigns armorial of Lennox and Menteith, and for supporters two eagles"! But I shall here quote the whole, in unbroken continuity, of what you appear so anxious should be known at least to the upper ten thousand. The italics are mine.

In the year 1858 the late Mr Alexander Oswald of Auchencruive consulted me in reference to his descent from the family of Haldane of Haldane, an ancient border race which long held a barony of that name in the county of Roxburgh. From family tradition he understood that he was the heir of line and representative of the *Haldanes of that Ilk*; but he had no evidence to that effect, and no attempts had been made to recover evidence of his descent in any authentic form. Mr Oswald wished me to make investigations on his behalf, to enable him to obtain a formal grant of the armorial bearings, and authority to assume the surname of Haldane of Haldane. After extensive research, in the course of which I had once more to examine the contents of the charter-room at Buchanan, I was enabled to place before Mr Oswald complete legal evidence of his descent from the ancient House of Haldane.

The interest which Mr Haldane took in these investigations will be seen by extracts from his letters to me, in acknowledgment of my communications to him regarding the necessary proofs of the long line of the Haldanes. Writing to me from Paris on the 3d February 1860, he says:—"Your letter of the 31st of January, just received, has gratified me very much, and I thoroughly appreciate the skill and labour you have so successfully employed in the discovery you have made with regard to the *missing Haldane*. . . . As the matter is now set at rest with regard to the pedigree, I trust that you will proceed with the necessary steps before the Lord Lyon."

Again, Mr Oswald, in reply to a more detailed statement of his Haldane descent, wrote to me from Hampden House, Green Street (London), on 17th January 1841, as follows:—"Moving to this place has prevented me from thanking you sooner for the pedigree and the proofs. It is a very extraordinary proof of what industry and intelligence can accomplish, if you will allow me to say so. The Lyon must be very *pugnacious* if he resist your *assault*."

His Haldane descent having been established, a claim was submitted to the late Lord Lyon for a grant of armorial bearings, including those of Oswald, Haldane, Lennox, and Menteith; and after full consideration, the late Mr James Tytler, Lyon-Depute, pronounced an interlocutor, on 15th March 1861, finding it established, by satisfactory evidence, that Mr Oswald was the heir-general and of line of the marriage, in the year 1675, between his great-great-great-grandfather and grandmother, Patrick Haldane of Lanrick, *second* son of John Haldane of Gleneagles, and Agnes Haldane, [*sic*] daughter and eldest co-heiress of George Haldane and Isabel Dundas, his wife, the said Agnes Haldane being also heir-general of the

ancient baronial family of *Haldane of that Ilk*. The Lyon-Depute, therefore, authorised letters-patent to be made, granting to Alexander Haldane Oswald the ensigns armorial claimed by him, including those of Lennox and Menteith, and for supporters two eagles.

Henceforth Mr Oswald assumed the surname of Haldane before that of Oswald, and carried the armorial bearings, as accorded him by the *Lord Lyon*.

Mr Oswald was a member of the Maitland Literary Club, and intended to have presented to the members of that club a work on the family of Lennox, as a contribution to Scottish historical literature; but before his intention could be carried out the Maitland Club, although not formally dissolved, had practically ceased to exist, no contribution having been made to it for many years.

The *Haldanes of that Ilk* being directly descended in the female line from the ancient *Earls of Lennox*, Mr Oswald was naturally anxious that the documents proving this descent should be preserved in an accessible shape, and after full consideration gave me a commission to form this [*Montrose*] Collection of the *Lennox Charters* into a Book on the *Family of Lennox*, similar to those works which have been arranged by me for several of the Historical Houses of Scotland.

The two volumes now finished are the result of my labours under this commission from Mr Oswald. While grateful for having been enabled at last to accomplish this task, I cannot refrain from expressing my sincere regret that he who was most interested in this work did not survive to see it completed. During the progress of the *earlier portions* Mr Oswald examined them carefully, and showed how accurate his knowledge was of the leading points in the history of the Lennox and Menteith families.—(*Preface* to “The Lennox, by William Fraser,” pp. vii., viii., ix., x.)

Upon several paragraphs of these prefatory explanations I have already commented.\* I must here repeat, however, that had it pleased Providence to spare Mr Oswald of Auchencruive (whom I had the pleasure of knowing), so that he might have bestowed the same careful and intelligent examination upon your completed work that he had, as you tell us, bestowed upon “the earlier portions,” it would never have seen the light of day in its present shape, for the reasons already stated. Your frank revelations, written rather in the lofty vein of Pomponius Ego than in the learned style of John Riddell (a style classical beyond your comprehension), are little to the purpose of elucidating your proper theme,—the *History* and *Heraldry* of the Lennox. The precise nature and extent of your commission from Mr Oswald we can only judge of from what you tell us. We learn, so far as revealed, that your late patron happened to be imbued with the very moderate ambition of proving his descent, through a wilderness of women, from the old

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\* See before, pp. 4 to 7 of this Epistolary Review.

family of Haldane in Roxburghshire, possessors, in times long gone by, of the barony lands of Halden, or Haddenrig, in that border county; and hence it was that they came to be called Haldane of *that Ilk*. But there are baronies and baronies. This border race was never in a single instance known to baronial fame. It never blossomed into a knighthood on a single stem, so far as I have been able to discover. It is no more one of "the Historical Houses of Scotland" than is the House that Jack built. I beg pardon of the latter, for that lives in story still, and bids fair so to live "*in omne volubilis ævum*." And did you really *glamour* your amiable patron with that dream of your own, which you never either illustrate or elucidate, and which I can find nowhere, either in history or in heraldry, except in your Preface, viz., that "the Haldanes of *that Ilk* were directly descended, in the female line, from the *ancient Earls of Lennox*"! You then add,—“Mr Oswald was naturally anxious that the documents *proving this descent* should be preserved in an accessible shape, and *after full consideration* gave me a commission to form this *Collection of the Lennox Charters* into a Book on the *Family of Lennox*, similar to those works which have been arranged by me for several of the Historical Houses of Scotland"! What page, what paragraph, of your eleven hundred pages, sheds the faintest light upon this rash genealogical assertion, or justifies the curiously irrelevant results; in which, moreover, you invade the armorial rights of others? The descent of Auchencruive from Haldane of *that Ilk* in Roxburghshire we may grant you. That it was only made out after "extensive research" we have no reason to doubt. The extracts you give us from Mr Oswald's private letters vouch for the pleasant excitement which that genealogical hunt occasioned both to patron and client. There was a "missing Haldane" it seems. But the official Inspector for Scotland of ancient and noble charter-rooms was not to be beat by a single link in a chain otherwise perfect. It added a greater zest, and a new impetus, to the extensive research; and your labours were at length crowned with the laurel of *spotting* the lost Haldane. "I thoroughly appreciate," says Mr Oswald, "the skill and labour you have so successfully employed in the discovery you have made with regard to the missing Haldane. As the matter is now set at rest with regard to the



pedigree, I trust that you will proceed with the necessary steps before the Lord Lyon. . . . It is a very extraordinary proof of what industry and intelligence can accomplish, if you will allow me to say so. The Lyon must be *very pugnacious* if he resist your *assault*." Higher praise could hardly have been accorded had you discovered the missing link in the genealogy of the human race. But you keep your readers so completely in the dark as to the actual value of this exciting discovery as to make one suspect that *le jeu ne vaut pas la chandelle*. Nevertheless, from this feat in genealogy you forthwith pass on to the Office of the Lyon-King. With a remarkable tautology of authentication, you beg the whole question of responsibility. Your patron, "after full consideration" of the conquered pedigree, from Haldane of *that Ilk*, commissioned you to face, alas! I must call him, the *least pugnacious* of Lions, with a "claim" on his part not only for the original armorial bearings of those border Haldanes, but for "*Lennox and Menteith*," and supporters into the bargain! You tell us, in tall but loose talk,—“Mr James Tytler, Lyon-depute, *after full consideration*, authorised letters-patent to be made granting to Alexander Haldane Oswald the ensigns armorial *claimed by him*, including those of Lennox and Menteith, and for supporters two eagles”!

Oh! for one hour of good Sir David, the “herald-bard” of Scotland, to institute a *revival* of the science of “ensigns armorial,” that beautiful handmaiden of historical truth in the olden time. I fear we can scarcely now echo the joyful song of our own bard of chivalry and arms, or realise the portrait he has given us of the greatest of Scotland’s Lyon-Kings:—

He was a man of middle age,  
In aspect manly, grave, and sage,  
As on king’s errand come;  
But in the glances of his eye  
A penetrating, keen, and sly  
Expression found its home;  
The flash of that satiric rage  
Which bursting on the early stage  
Branded the vices of the age,  
And broke the keys of Rome.  
On milk-white palfrey forth he paced;  
His cap of maintenance was graced  
With the proud heron-plume.

From his steed's shoulder, loin, and breast,  
 Silk housings swept the ground,  
 With Scotland's arms, device, and crest,  
 Embroidered round and round.  
 The double tressure might you see,  
 First by Achaius borne,  
 The thistle and the fleur-de-lis,  
 And gallant unicorn.  
 So bright the king's armorial coat,  
 That scarce the dazzled eye could note,  
 In living colours, blazoned brave,  
 The Lion, which his title gave.  
 A train, which well beseeemed his state,  
 But all unarmed, around him wait.  
 Still is thy name in high account,  
 And still thy verse has charms—  
 Sir David Lindesay of the Mount,  
 Lord Lion King-at-arms!

One of our best historical antiquaries, recently lost to us, *Cosmo Innes*, thus sighs, in his gentle manner, over the decay of Heraldry:—"I hope it will not alarm any one," he says, "if I venture merely to allude to the science of Heraldry—a study which of old engaged the attention of all that were gentle-born—which is now left to the tender mercies of the lapidary and the coach-painter. *Requiescat!* I shall not try to unfold the mysteries of the noble art of blazon. I might indeed suggest the great importance of some knowledge of heraldry to the student of historical antiquities. For the pursuit of family history—of topographical and territorial learning—of ecclesiology—of architecture, it is altogether indispensable; and its total and contemptuous neglect in this country is *one* of the causes why a Scotchman can rarely speak or write on any of these subjects without being exposed to a charge of using language he does not understand."\* Alas! that the diligent and enthusiastic arranger of the Historical Houses of Scotland, instead of proving an exception to this rule, should have at least *lent a hand* to reducing this beautiful and valuable science to an old almanac, as too many are apt to consider it in our days.

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\* Professor Cosmo Innes' "Scotland in the Middle Ages," pp. 302-3.

The commission in which, it seems, you were expected to "assault" the Lyon-Depute, was extremely simple, and surely little likely to provoke any armorial passage of arms. "Mr Oswald," you say, "wished me to make investigations on his behalf to enable him to obtain a formal grant of the armorial bearings, and authority to assume the surname of *Haldane of Haldane*." The genealogy being proved, or not disputed, and the "missing Haldane" providentially found, the rest was a mere question of fees and fancy. All the armorial bearings anywhere recorded of the Haldanes of *that Ilk* consist of a single coat, bearing two prowling leopards, or, in heraldic language, passant guardant. We look in vain there for a vestige of the bearings either of Lennox or Menteith. Nevertheless, and, by your own shewing, acting under a commission which only refers to the Haldanes of Roxburghshire, you say, Mr Oswald's "*Haldane* descent having been established, a claim was submitted to the late Lord Lyon for a grant of armorial bearings, including those of Oswald, Haldane, Lennox, and Menteith." But how is this? For you furnish not the twig of a tree, not the shadow of a shield, to illustrate by what new process of blazoning, the two single and simple coats, of Haldane of *that Ilk* (the leopards), and Oswald of Auchencruive (a naked savage wreathed and cinctured *proper*), have, in your hands, become marshalled along with the high historical bearings of Lennox and Menteith. You tell us, not very lucidly indeed, "Mr Oswald was the heir-general and of line of the marriage, in the year 1675, between his great-great-grandfather, Patrick Haldane of Lanrick, second son of John Haldane of *Gleneagles*, and Agnes Haldane, daughter and co-heiress of George Haldane and Isabel Dundas, his wife,—the said Agnes Haldane being also heir-general of the ancient baronial family of Haldane of *that Ilk*." Then comes the bold announcement already quoted, that the Lyon-Depute, *therefore*, authorised letters-patent to be made, granting to Alexander Haldane Oswald the ensigns armorial claimed by him, *including those of Lennox and Menteith*, and for supporters *two eagles*! Did the late Lyon-Depute really do this thing *ex proprio motu*? No, sure. The personal pronoun is too proudly prominent in your narrative to allow us to doubt that no offence will be taken if we assume that the active author and promoter

of this claim is none other than yourself. In a former page of this Epistolary Review I have ventured to express my belief that you were *dominus litis*; or, if you prefer a musical to a legal metaphor, the tongue of the armorial trump that charmed the *least* pugnacious of lions to crouch at your feet. But why, for the sake of tall talk, and magnifying your subject, be so ambiguous and indistinct. You jumble together the two very different families of Haldane of *that Ilk* in Roxburghshire, and Haldane of *Gleneagles* in Perthshire. Your explanatory narrative leaves it doubtful through which of these houses you claim for Auchencruive the Lennox descent that is to entitle that modern family to the ensigns armorial of "Lennox and Menteith," guarded, too, with supporters. Then, what "Menteith" do you mean? The old Stuart Earls of Menteith? Or do you mean Menteith of *Rusky*, descended from a third son of those Earls. Pray, be distinct. "Under which king, Bezonian? speak, or die." Let me help you. Whatever you mean by all this ambiguity, you can only make out that claim imperfectly for Auchencruive through a line weakened by two female links, mother and daughter, and only descending from a *second* son (called of Lanrick) of the marriage of our old friend, Sir John Haldane of Gleneagles, to Agnes Menteith of Rusky, one of the heirs of line and coparceners of Duncan, last Earl of Lennox of the old race, and also of Menteith of Rusky. Agnes Haldane, of the old race in Roxburghshire, who, in 1675, became the wife of the before-mentioned *second* son of Gleneagles and Agnes Menteith of Rusky, having herself no descent from the old Earls of Lennox (for that dream of yours is a delusion and a snare) could transmit to her descendants no right whatever to the coat-armour either of Lennox or Menteith. Her line was a barren heritage of naked antiquity, which once may have been "wreathed and cinctured," but which eventually became dispersed among six sisters, of whom a later Agnes Haldane of Roxburghshire, wife of Dundas of Manor (assuming the genealogy proved) was the eldest. But through the *second* son of Gleneagles and Agnes Menteith of Lennox and Rusky, and *through that line alone*, a *qualified* right to the coat of Gleneagles, who quartered Lennox and Menteith of Rusky with his paternal coat, may be matriculated for Auchencruive.

Now, "if ye have writ your annals true," the arms you have so pompously proclaimed for that family, but of whose pictorial matriculation you are very reticent, must tell the story so distinctly that heralds who run may read. If the blazonry of your narrative be worth a *bezant* it cannot be mistaken. Heraldry is symbolical history, and the value of it is this: It frequently supplies the place of written records, by filling up otherwise hopeless vacancies and *missing links*. All accurate marshalling of arms of alliance should tell some genealogical and historical story. But the story should be *worth telling*; and, above all, it should be *true*. Let us see, then, how you have fulfilled the armorial responsibility you have taken upon yourself. For that we must go to the Lyon Records. Here is a diminished sketch of your marshalling of the magnificently coloured matriculation for Auchencruive. As was said of the Balaclava blunder, "*C'est magnifique, mais ce n'est pas la guerre.*"



Good "King David of the Mount" be with us, what have we here! By the beard and "the bones" of Old Logs, and the cap of maintenance and mantle of the Lyon-King of Auld, if you have not gone and taken the coat-armorial, and supporters of *Napier of Merchiston*, belonging to that family and none other since time immemorial, called it "Lennox," and quartered it with Auchencruive! *Desdichado* to the rescue!

With the sharp end of my lance I prick the two lower quarterings (*third* and *fourth*) of that shield, and the eagles clutching them on either side. I am here to do battle *à toute outrance* with that inartistic combination of ensigns armorial, as being neither conform to the law and practice of heraldry, nor consistent with the law of Scotland. But let us see, in the first place, how these quartered alliances stand officially expounded in the Register.

Quarterly, First; *azure*, a savage wreathed about the head and middle with bay leaves, having a quiver of arrows by his side, bearing a bow in his left hand, all *proper*, and pointing with his right to a comet or blazing star, in the dexter chief point, *or*, within a bordure ingrailed of the last, for *Oswald*: Second; *gules*, two leopards in pale, passant guardant, *argent*, for Haldane of *that Ilk*.<sup>\*</sup> Third; *argent*, a saltyre *ingrailed* betwixt four roses, *gules*, for *Lennox*: Fourth; *or*, a bend chequé, *sable* and *argent*, for *Menteith of Ruskie*.

Such is the technical reading of this new coat-quarterly for Oswald of Auchencruive. As for the surroundings, helmet and mantlings, crests and mottoes, which do not properly come under the category of armorial bearings, being changeable according to fancy, the reading of these may be dispensed with as mere leather and prunella in the present inquiry. I must reserve a comment, however, upon the "Compartment below the shield on which are placed for supporters two eagles *proper*, beaked and membered, *or*, the destination of the supporters being limited to the patentee, and his heirs-male whatsoever." For that really demands a special notice hereafter, as one of the most equivocal instances, of a very questionable power in the Lyon King, to add those much coveted accessories (which, as regards the present example, actually support the very same bearings belonging of immemorial right to Merchiston), to any armorial shield which it pleases him, when rampant, so to order, *or*, when somnolent, to wink at.

To those few who, like myself, feel at all interested to dive deeper into the merits of your last work than the purple and fine linen in which it is arrayed, it cannot fail to seem odd how very little after all Auchencruive has to do with the story at least. Upon close inspection that highly respectable family seems to dwindle into a prefatory peg, upon

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<sup>\*</sup> If Haldane of *that Ilk* be, as you assert, descended from the old Earls of Lennox, how comes it that this coat bears no sign of that illustrious descent?

which is suspended (as the knights of old were wont to suspend their shields on trees), "The Lennox, by William Fraser." The rise and progress of that compilation, as recorded in the Preface, is not very precisely or coherently told. It seems, when compared with the text, to amount to this: Auchencruive is smit with a desire of becoming *Haldenized*, genealogically, armorially, and nominally. You, the arranger, if not prompter of that fancy, on the other hand, are suddenly inspired with the ambition of producing a great work on the Lennox, "similar," as you say, "to those works which have been arranged by me for several of the Historical Houses of Scotland." It happened, however, that my "History of the Partition of the Lennox," published in 1835, which had originally inspired you, but which now stood sadly in your way, had to be extinguished, even though you might have to borrow from its pages in constructing the extingisher. To combine, and accomplish with *éclat*, these respective desires and designs, was the problem of your work. Nothing more easy, especially for an ornamental book-maker. The Lennox, by Napier, was again carefully conned, skimmed, and then cast aside as waste paper. Next you furnish Auchencruive with a *double* descent from Lennox, one of which is a *myth*, with armorial bearings to match, which, however, don't match. And then, *Hey Presto!* Auchencruive becomes so thoroughly and intensely *be-Lennoxed*, that, as you tell us, "Mr Oswald, after full consideration, gave me a commission to form this collection of *Lennox Charters* into a Book on the *Family of Lennox*,"—in the many hundred pages of which Book there is no more relating to Auchencruive or to Haldane of *that Ilk* to be found than there is in the Book of Numbers or of Doomsday. The allotment of the brilliant result, between the parties concerned, is not a very equal one. The Preface, and those very equivocal "ensigns armorial," are for Auchencruive. "The Lennox" is all for William Fraser,—about the proportion of a china orange to Lombard Street, or Falstaff's bread to his sack.

Now, with this genesis of your Lennox, the new armorial shield for Auchencruive is in curious keeping of contradictory confusion. From the Book of the Lennox, commissioned by Auchencruive, but by way of

being built out of the Montrose collections, Auchencruive is entirely excluded. In the armorial shield, professedly negotiated and arranged for Auchencruive upon a Lennox basis, "The Lennox" is not represented in any one of its quarters! Neither Lennox, nor Haldane of *Gleneagles*, appear in it at all; although, unquestionably, the best armorial feather in the Auchencruive cap is *Gleneagles*, *through a second son*, and *equally shared among a commonwealth of sisters*. Let us see how this matter stands.

The *first* quarter represents Auchencruive; a savage man, naked, but no need to be ashamed, being arborescently wreathed and cinctured *proper*. The *second* quarter represents Haldane of *that Ilk*, being simply two leopards *passant guardant*, without the vestige of a Lennox bearing. The *third* quarter, called "Lennox" in the record, is not Lennox at all, being the *engrailed saltier*, with the eagle supporters, the whole belonging to *Napier of Merchiston*! The *fourth* quarter represents Menteith of Ruskie, by the Stewart *chequé* in the form of a *bend*, but disjoined altogether from the proudest (and most relevant to the issue) bearings of that family,—*Lennox*, namely, pure and simple, as representing one of the heirs of line and coparceners of "Lanox of Auld." But as for poor Haldane of *Gleneagles*—the real and only Lennox armorial *point d'appui* for Auchencruive—that ancient and historical coat is excluded altogether from this marshalling of Lennox alliances! The whole thing is false-heraldry to the core, and illegal to boot; and, to crown all,

"His wing doth the eagle flap o'er the false-marshall'd: Eleu loro!"

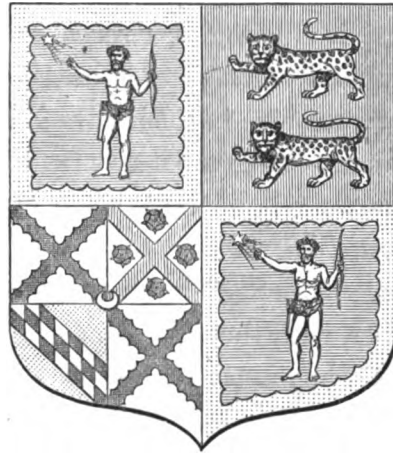
You must forgive me if I now presume to shew you how, under the genealogical materials given, which I assume proved, the new coat for Auchencruive ought to have been marshalled. There are but three coats to deal with—1. Oswald of Auchencruive; 2. Haldane of *that Ilk*, in Roxburghshire; 3. Haldane of *Gleneagles*, in Perthshire. This last, although it be infinitely and in every respect the more important of these two distinct races of Haldane,\* I have here placed after the old Border

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\* According to Nisbet, *Gleneagles* of *that Ilk*, in Perthshire, ended in an heiress, who married Haldane of *that Ilk*, in Perthshire, in the time of Robert the Bruce, and took her name of Haldane, which founded the family of Haldane of *Gleneagles*. But that, supposing it true, does not prove that either of these Haldane races were descended as *Haldanes* from the old Earls of Lennox. Of course, Agnes Menteith, and all her Haldane progeny, were so descended through her.



family, seeing upon this last descent it is that your genealogical labour and anxiety has been chiefly bestowed. Under these circumstances, when accurately marshalled the new armorial shield for Auchencruive would be as here depicted, and most assuredly without supporters.



This shield would read thus :—*First* and *fourth*, the original family coat of Oswald of Auchencruive. *Second*, the coat of Haldane of *that Ilk* (of whom Auchencruive now claims to be heir-general and of line, as representing the eldest of six sisters—viz. Agnes, Ann, Isobel, Janet, Liliass, and Margaret). *Third*, the coat of a *second son* of Haldane of Gleneagles, chief of that family, who quartered, matrimonially, with the *pure undifferenced* shields of Lennox and Menteith of Rusky,—Gleneagles' lady (like Merchiston's) being one of the heirs of line and coparceners of both those illustrious and wealthy houses. But then you must not give that quartered-quarter, that be-Lennoxed corner, to Auchencruive without *bruising* it in the centre with a crescent, the well known mark of difference for a second son. By no other path can Auchencruive touch one of the highest, most interesting, and most historical of the armorial coats of Scotland. The whole value of the pretension, rather a far-fetched one, depends upon the perfect accuracy of the marshalling. If it be proved that Agnes Haldane, of that then landless *Ilk* (she who married John Dundas of Manor, the ancestor, through *another female*, of Oswald of Shieldhall and Auchencruive) was one—no matter whether eldest

or not—of the six daughters of *John* Haldane of Lanrick, the only son of *Patrick* Haldane of Lanrick, who was the *second* son of John Haldane of *Gleneagles* and Agnes Menteith of Rusky, the line of that blood from "Lennox and Menteith" is *unquestionable*, notwithstanding that it comes diminished, first, through a second son, and then has to be traced out with "extraordinary industry and intelligence" through the meanders of a whole *Delta* of daughters, who have all a co-equal right to the very same armorial bearings! But never should that family omit the crescent that *breaks* or *bruises* their Lennox and Menteith quartered-quarter. A mark of difference is no *tache* even upon the noblest of shields. The absence of it is so, when it *ought to be there*. The illustrious shield of the great Wellington was accurately *bruised* with the star or mollet of a third son, to difference Wellington from Mornington. The House of Howard furnishes various notable examples. The Suffolk Howards display a crescent, and the Effingham Howards three mollets or stars on the coat of Norfolk. Cecil, Marquis of Salisbury, is an older creation than Cecil, Marquis of Exeter; but Salisbury is a cadet of Exeter, and carries a crescent for difference. The Dukes of Bolton (now extinct) charged their shields with a crescent, to mark their cadency from the House of Paulet. The Irish peerage suggests the instance of Ormonde. The Earl of Kilkenny, the Earl of Carrick, and Baron Dunboyne, are all cadets of Ormonde. Each of these noblemen charge their Butler coats respectively with a crescent, three crescents, and three scallop shells. In Scotland, the Earls of Deloraine (now extinct) carried, *or*, on a bend *azure*, a star between two crescents of the field, with a crescent for difference, because the first Earl of Deloraine was Lord Henry Scott, a younger son of Anne Duchess of Buccleuch. Haddington is unwilling to forego the claim of cadency from Hamilton of Innerwick, which is indicated in the first and fourth quarters of the noble coat. Blantyre gracefully *bruises* Galloway with a *rose*; and the Peer of Hopetoun is proud to add a *laurel-leaf* to the *bezants* of Hope. Let Auchencruive hold by the horns of his crescent, if he care to claim kindred with Lennox and Menteith.

But here let me call your attention to the fact, which only came to

my own knowledge after the foregoing was in the hands of the printer, that the coat armorial of your patron's *Gleneagles* ancestor, Patrick of Lanrick, actually stands recorded in the Lyon's Register. Does he, too, avoid the mark of cadency that has vanished in the new coat you have arranged for his descendant and female representative? Not at all. Patrick of Lanrick adopts, as he was entitled to do, the coat of the head of his House, viz., *Gleneagles*, matrimonially quartered with Lennox and Menteith of Rusky,—“*And, for ane brotherlie difference, in the middle fess, ane crescent,*”—precisely as it is given in the armorial sketch, with which I have ventured to illustrate the foregoing rectification. Unfortunately, however, the noble science being at that period somewhat on the wane, the marshalling of the *Gleneagles* coat is there blundered; for the saltier of his *Lennox* alliance is *engrailed* instead of being plain, as unquestionably it ought to have been. And the very same essential blunder (the effect of which shall be fully explained in the sequel), had crept into the coat of Mungo Haldane of *Gleneagles*, Patrick's brother, and head of the House, to the derogatory diminution of his ancient coat, and utter confusion of his ancient claim to represent “*Lanox of Auld.*” Now, Sir, here was a chance for you. But instead of redeeming the *Gleneagles* coat, in your *Lennox* marshalling for Auchencruive, you have excluded it altogether, with the single exception of the *blunder*, which you nevertheless describe as “*Lennox!*” As for the “*brotherlie difference*” you shirk that entirely. And then, by way of guardians to this strange and unreadable coat-armorial, you have planted on each side of it two rampant eagles, either of them fit to have carried Ganymede to Heaven; and, by Jove, have thus blundered headlong into the hostile arms of *Merchiston*, without, I verily believe, being at all aware of the scrape you have got into. But I must now proceed to demonstrate that neither by the law and practice of Heraldry, nor by the law of Scotland, has the Oswalds of Auchencruive (of whom I desire to speak with the utmost respect), any right to this new coat-armorial, which, as would really seem from your own explanation in the Preface, you had taken upon yourself to arrange and negotiate for that family. As a preliminary, however, to an armorially illustrative demonstration, it will be

necessary, for the benefit of the unlearned, shortly to explain the meaning of the words *saltier* and *engrailed*.

The *saltyre*, *saltire*, or *saltier* (for so it has been variously spelt), is a cross in the form of the cross of St Andrew, a form that needs no further explanation. The mode of depicting the cross that is termed *engrailed* is thus quaintly explained by *Guillim*, in his "Display of Heraldry." He says,—“Engrailed is a term derived from the French *graisle* or *gresle*, which signifies anything struck with hail, which the edges of this band seem to resemble, like the edges of the tender leaf, which is often a sufferer thereby.” Less poetically explained, it means a line described by a series of small half-circles or crescents, with their points or horns turned outwards. The old Earls of Lennox always carried their *saltier* within *straight lines*, being the pure St Andrew's cross, and never engrailed.\* Napier of Merchiston, on the other hand, a family that has a double descent, male and female, from those earls, invariably, since time immemorial, blazoned their saltier *engrailed*, for a *difference*. The fact, and the reason why, shall be abundantly proved in the sequel. Nisbet, our best institutional writer on Heraldry, says,—“In carrying arms it has always been punctually observed, by all nations, that none should presume to take to himself the armorial ensign of another, and so intrude into their family and name. For *arms are silent names*, distinguishing families. And even those of the same blood and parentage could not bear the coat armour of the principal family without some variety and alteration by which they were distinguished from the *stem*, and from one another.” This cardinal rule in Heraldry you have utterly ignored in your heraldic “arrangement” for your late lamented patron. The same institutional author tells us,—“When lines of partition are carried right by principal families their cadets make them crooked by putting them under *accidental forms*,† such as *engrailed*, *waved*, &c., for a distinction.”

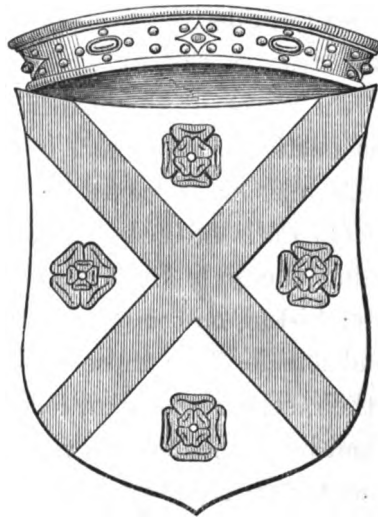
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\* Nisbet (i. 132), quoting Balfour, records that the progenitor of the old earls was “crossed at the Holy Land, for which he and *his posterity* carried for arms a saltier *ingrailed* cantoned with four roses,” &c. This blunder will be disproved in the sequel by a plate of seals, with which you have taken an unwarrantable liberty.

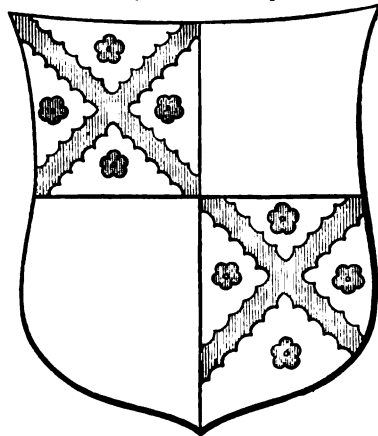
† Essay on Additional Figures, and Marks of Cadency, 1702, pp. 18 and 115.

I may now commence the armorial illustrations of the matter in hand with a leaf out of the famous book of good King David of the Mount, the oldest and highest heraldic authority of all the scanty armorial records that have been saved for Scotland.\*

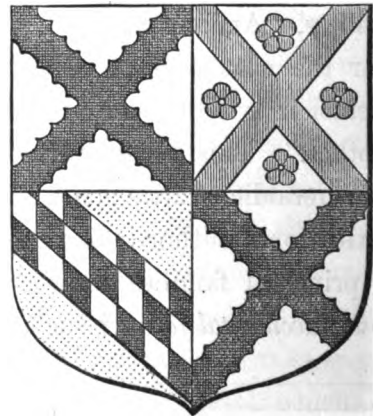
*the Erle of Langochairto*



*marquis of martheinstoun*



*baron of glennigis*



\* There is no existing Lyon Register between the date of Sir David's, 1542, and the oldest of the present Register, 1672. The following autograph of the author accompanies the illumination of his own arms:—"The armes of Sir David Lindesay of the Mont, Kytht, alias Lyon King of Armes, autor of the present buke, anno Domini 1542." It is preserved in the Advocates' Library.

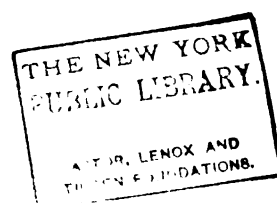
Each of these armorial shields tells a story, and tells it truly. The upper shield displays the St Andrews cross of the "Erle of Lanox of Auld," depicted and entitled by the hand of Sir David Lindesay himself. In like manner he blazons the two lower shields. That of Napier of Merchiston he treats quarterly, but has only given the leading or paternal quarters, 1st and 4th, leaving 2d and 3d, the quarters of alliance, vacant. This is consistent with the armorial and genealogical history of that family. They claimed a lineal descent, in the male line, from a younger son of the old Earls of Lennox, and never carried any other arms, throughout many generations, than the shield of Lennox under the *brizure* of *engrailing*, in memory of that cadency. More of this hereafter. Sir David's emblazonry for Haldane of Gleneagles is no less accurate. The Gleneagles paternal coat, 1st and 4th, is a saltier engrailed *sable*, having nothing to do with his Lennox claim. But 2d and 3d are the bearings of his wife, Agnes Menteith of Rusky and Lennox, which old John of Gleneagles, the keenest and most persistent of the opponents of the usurpation of your friend John Lord Dernely, would not have foregone for the saltier *sable* of Rhadamanthus himself.

That most accomplished lawyer and gentleman, also a very learned heraldic writer, Sir George Mackenzie of Rosehaugh, had, nevertheless, entirely misread Sir David Lindesay's blazon of the Merchiston coat. "Sometimes," says he, "the husband did of old assume *only* the wife's arms who was an heretrix; as Scott of Buccleugh the arms of Murdiston, and Napier the arms of Lennox, and *did not bear their own native arms.*" It happens that both examples fail. The "Bold Buccleuch" did not assume "only his wife's arms." Whether carried on a bend or on the field the stars and crescent were his own. Thus Scotland's poet and historian (a scion who illustrates beyond nobility the race of Harden and Buccleuch, as Scotland's philosopher and mathematician illustrates the race of Lennox and Merchiston), tells us,—

"An aged knight, to danger steel'd,  
With many a moss-trooper came on,  
And azure in a golden field,  
The stars and crescent graced his shield,  
Without the bend of Murdieston."

O

But Sir George had erred even more egregiously in his second example. John Napier, younger of Merchiston, who married Elizabeth Menteith of Rusky and Lennox in 1455, so far from assuming his wife's armorial bearings to the exclusion of his own, did exactly the reverse. He retained unaltered the shield of his fathers without allowing his lady to share it by any mode of armorial matrimony whatever. Nisbet, another great oracle of Scottish heraldry, has allowed himself to be misled by Mackenzie. In his essay on the ancient and modern use of armories, he founds a statement upon the faulty passage, which accounts for the following gross mistake in his own greatest work, the really valuable *Institute of Scottish Heraldry*:—"What Napier of Merchiston, the most eminent family of the name, carried of old, I know not; but *since* John Napier of Merchiston married Margaret [*Elizabeth*] Monteith, daughter and co-heir of Murdoch Monteith of Rusky, and one of the heirs of line to Duncan Earl of Lennox in the reign of James the Second, they have been of use to carry *only the arms of Lennox*, viz., argent, a *saltier engrailed*, cantoned with four roses, gules" (vol. i. p. 137). This proves Nisbet to have been but a tyro compared with good King David of the Mount. He might have learnt from him that a *saltier engrailed* was *not* "the arms of Lennox;" and further, that the saltier under that mark of cadency *was* the "native arms" of Napier of Merchiston, carried by that family "of old," generations before the marriage with the great heiress. It is not a little strange that so learned a herald as Nisbet should fall into such a blunder. For even had the heir of Merchiston thrown aside altogether his own native arms—which would indeed have been "*parma not bene relictæ*"—and only adopted the arms of his wife, those arms would never have been represented by that engrailed saltier which Sir David gives as *first* and *fourth* in the shield of Merchiston. Why, that lady was co-heiress of *one half* of the wide and far descended lands of Rusky in the Menteith, and of *one quarter* of the vast *Comitatus* of the Levenax. Her arms must have been Lennox and Rusky, *pure and simple*. And accordingly those are the very bearings which Sir David Lindesay has assigned to her sister and coparcener, *Agnes* Menteith, viz., 2d and 3d in the matrimonially marshalled shield of Glen-





1



2



3



4



5



6



7



Charter seals proving that John Napier 3<sup>d</sup> of Merchiston did not take the coat of Levenax from his marriage with the heiress of that Earldom. See explanation after table of contents.

eagles, to which Merchiston was equally entitled, but never quartered.

In illustration of all this let me now claim your attention to the following engraved plate of seven charter-seals and one signet, fronting this page, and numbered in lineal male descent from heir to heir, throughout the fifteenth, sixteenth, and seventeenth centuries. They are all attached to deeds preserved in Lord Napier's charter-chest, and I shall explain them in their order:—

1. Seal of Alexander *first* Napier of Merchiston, of date 1453.\*
2. Seal of Alexander *second* Napier of Merchiston, of date 1452 (*vita patris*).
3. Seal of John *third* Napier of Merchiston (who married the Lennox heiress in 1455), of date 1482.
4. Seal of Archibald *fourth* Napier of Merchiston, of date 1512 (the year before Flodden).
5. Seal of Alexander *fifth* Napier of Merchiston (son of Alexander, killed at Flodden in 1513, *vita patris*, Archibald; his seal has not been preserved), dated 1543.
6. Seal of Archibald *sixth* Napier of Merchiston, *supported by two eagles*, of date 1582.
- 7 & 8. Seal and signet of John Napier *seventh* of Merchiston, the inventor of Logarithms, attached to various deeds and documents between 1600 and 1617.

This very complete genealogical series of Merchiston seals, engraved in my Memoirs of Merchiston, for the purpose of thoroughly refuting Sir George Mackenzie, Sir James Balfour, and Mr Nisbet, who had misled other heraldic writers of less repute, I did not fail to communicate to that accurate and accomplished armorist, Mr Henry Laing, when he was compiling his valuable and beautiful "Descriptive Catalogue of ancient Scottish Seals," in which they form an interesting page. They will be found there cut in wood, somewhat more roughly than in the plate. The following is his record of the seal number 1, being that which was first discovered, and carefully preserved, by the grandfather of the present peer of Napier. Mr Henry Laing thus reads and illustrates it in his catalogue.†

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\* This seal was first observed by the late Francis seventh Lord Napier when compiling a valuable genealogical and historical account of his family, which composes the article NAPIER in Mr Wood's edition of Douglas's Peerage. Lord Napier immediately perceived that this discovery destroyed the erroneous theory of Nisbet and others, and ordered the seal in question to be carefully preserved and enclosed in a small wooden box. I subsequently followed up and fully illustrated Lord Napier's discovery in my Memoirs of Merchiston, 1834; and my History of the Lennox, 1835.

† Descriptive Catalogue from Ancient Scottish Seals, Royal, Baronial, Ecclesiastical, and Municipal, 1850; and Supplement, 1866.

NAPIER, ALEXANDER, of Merchiston. Couché. A saltire engrailed, cantoned with four roses. The crest on a helmet, with mantlings, is partly lost, but from what remains, it was no doubt the same as the following seals, an arm grasping an eagle's claw. The shield is a little broken, but enough yet remains perfect to shew the charges distinctly. "S. ALEXANDRI NAPER." Appended to charter by Alexander Napier to John Cuthbertson of some property in Leith, dated 13th March 1453. *Napier Charters.*



But the seal number 6 in the engraved plate is that which is most important to the matter in hand, for it gives the full coat-armour with supporters, as then carried by the family. It is thus described by Mr Henry Laing, and illustrated with a woodcut, of which the following is an impression. But number six in the engraved plate is better.

Rather injured. Couché. Napier, as before. Crest on a helmet, with mantlings, a dexter cubit arm grasping an eagle's claw, erased. Supporters, two eagles. "S. ARCHIBALDI NAPER DE MERCHISTON." Appended to a precept of clare constat for infefting Thomas Buchanan in the lands of Blairnavaddis, in the lordship of Lennox and sheriffdom of Dumbarton, A.D. 1582. *Napier Charters.*



This charter-seal is valuable to the family, especially against such armorial marauders as yourself. It is a very ancient example of the coat-armorial of a Scottish baron, not a peer, guarded with supporters, and affords incontestible evidence of the right of Merchiston to that coveted and often stolen honour, independently altogether of the peerage bestowed by Charles the First upon that family half a century later. The date of the deed to which it is attached, 1582, is about a century earlier than the oldest date in the existing official Lyon Register of Scotland, which alas! is only 1672. And this simple coat, of cadency in the male line from the old Earls of Lennox, without any quartering—which the family might have added at any time had it so pleased them—with "Lennox and Menteith," was retained long after Merchiston had become ennobled. Archibald first Lord Napier (only son and heir of the first marriage of the great Napier), had no other bearings on his shield than the engrailed

saltier and roses, supported by two eagles.\* The arms of his grandson Archibald, third Lord Napier (who died unmarried in 1683), stand thus recorded in the existing official register,—“Lord Napier, a saltyre ingrailed betwixt four roses *gules*, supported by two eagles proper, armed and beaked *or*,” the very ensigns armorial, with the very eagles, which, in the plenitude of your commission, you have arranged for Oswald of Auchencruive, against all law, if you will allow me to say so.

When the sister of this last-named peer became, by the law of the limitation of the peerage, “Margaret Baroness of Napier” in her own right, all that remained of the Lennox and Merchiston baronies, with the consequent right to the armorial bearings, devolved upon her, who of course made no change in the ensigns armorial of the noble family. Her grandson and heir, however, who became Francis fifth Lord Napier, whose paternal line was Thirlestane and Buccleuch, at last came to quarter the Napier coat with the bearings of the “Bold Buccleuch,” as here represented, in which the old Merchiston eagle will be observed, glaring angrily at the sturdy moonlight warrior on the opposite side, who heeds him not:—



\* I find the full armorial bearings of Archibald first Lord Napier, ennobled in 1627, emblazoned in an old heraldic volume, MS., preserved in the Advocates Library, entitled, “Illum. Arms by J. Sawers, Herald Painter in the reign of Charles I.” The woodcut is the 5th Lord’s armorial bearings, from Nisbet.

To the genius of the immortal Border Bard it must be left to tell the story of that only armorial quartering the family have ever adopted :—

“ From fair St Mary’s silver wave,  
 From dreary Gamescleuch’s dusky height,  
 His ready lances Thirlstane brave  
 Arrayed beneath a banner bright.  
 The tressured fleur-de-luce he claims  
 To wreath his shield, since royal James,  
 Encamped by Fala’s mossy wave,  
 The proud distinction grateful gave,  
 For faith ’mid feudal jars ;  
 What time, save Thirlstane alone,  
 Of Scotland’s stubborn barons none  
 Would march to southern wars ;  
 And hence, in fair remembrance worn,  
 Yon sheaf of spears his crest has borne,  
 Hence his high motto shines revealed—  
 ‘ Ready, aye Ready,’ for the field.”

In a former page (p. 93) I have quoted the late Professor Innes’s feeling lament over the decay of heraldry, the science of which, he says (writing in 1860), is “ now left to the tender mercies of the lapidary and the coach-painter.” There is no doubt that not very long since such was the case. *At nunc melius est.* Of late years a better era has arisen under the present *regimé* and renewed constitution of the Lyon Court of Scotland. The coach-painter will not now be suffered, in Scotland at least, to work his will. Even the lapidary will be brought to his bearings. With the great improvement in that once more Regal department, surely, Sir, you ought to have gone hand in hand. Do not, for the sake of your own reputation, and the credit of the families whose heraldic landscape-gardener you are, add to the old lament, a new enemy to be feared in the commissioned complimentary arranger of the Historical Houses of Scotland. If the supporters attached to the new marshalling of alliances arranged for Auchencruive were obtained on the plea of the *Gleneagles* alliance, where is the *Gleneagles* coat in all those quarterings? Moreover, would not Patrick of Lanrick himself, so careful of his crescent “ for ane brotherlie difference,” have scorned to claim through that blood, for himself or his race, those eagle supporters, which are understood to

have been the supporters of his chief, as they are unquestionably proved to have been those of Merchiston since time immemorial? If, on the other hand, it be meant (for it suits you to leave the question *in nubibus*) that those supporters are claimed in right of the blood of Haldane of *that Ilk* flowing into the veins of *Auchencruive*, how is the right justified? That inhistorical barony, which was never worth a knighthood, has long vanished. The male line that might have raised it has long been extinct. The races of the six sisters—Agnes, Ann, Isobel, Janet, Lillas, and Margaret (unconscious of their claims)—have each and all the very same right to everything you here claim for the eldest one, viz. armorial bearings, through blood. The races of these co-equal sisters (all well married) are legion. Each and all may follow suit with the eldest, under the auspices of the Arranger for Scotland. The world may become inundated again—an image, I confess, that Horace would have condemned, as “the union of the *Serpentes* with the avibus, the *Delphinum in Silvis*”<sup>\*</sup>—with Ganymede eagles, beaked and membered, and engrailed saltiers, cantoned with four roses, *gules*, and called “Lennox,”—thus revolutionising the Monarchical constitution of the time-honoured realm of the “ruddy Lion that ramps in gold,” into a confused and combative COMMONWEALTH of false and female heraldry. Go to! I beg to plead the common law of Scotland against that result, as regards, at least, such use being made of the ensigns armorial of Napier of Merchiston.

There can now be no question that the right to carry armorial bearings, of a particular configuration, to the exclusion of others who are ambitious of adopting the same, involves a question of *property*. The law was well stated in the case *M'Donnell v. Macdonald*, in 1826, by two eminent Judges, Lord (William) Robertson and Lord Pitmilley. The former said,—“The Lord Lyon's power to grant new armorial bearings is merely discretionary and ministerial, and with that the Court of Session cannot interfere. But if the Lord Lyon should grant to one person arms which *another is entitled to bear*, and should refuse to give

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<sup>\*</sup> See before, pages 7 and 8.

redress, there could be no doubt of the jurisdiction of the Court of Session to entertain an action at the instance of the party to have his right declared, as this would involve a *question of property*, which a right to bear particular ensigns armorial *undoubtedly* is." Lord Pitmilley's doctrine was to the same effect. "As to the abstract principle, it is clear that wherever there is a *competition* as to the right to armorial bearings, an appeal lies to the Court of Session by advocacy, and also by reduction, which is the proper remedy when the arms are already granted." In an older case, that of Dundas of *Dundas v. Dundas of Fingask*, 1762, the Court of Session interfered very peremptorily with an award of the Lord Lyon's. The Lords found for the pursuer,—“That the coat of arms, obtained in 1744, by Thomas Dundas, defender, from the late Lord Lyon, was obtained by *obreption*,\* and that he has no right to use the same, and therefore ordain the said coat of arms to be *recalled* and *expunged from the Lord Lyon's books*, reserving to the defender to apply for a new coat of arms, as accords.” At the same time the pursuer was declared to have the sole right to the arms in question, and the defender was found liable in all the expenses.

With the latest case of the kind, that of Thomas Smith Cuninghame, younger of Caprington, *v. Sir Robert Keith Dick Cunyngham of Prestonfield*, I happen to be familiar, having been counsel for the successful party against my late lamented friend Cosmo Innes, who was counsel on the other side. The abstract question of heraldic succession that arose between these parties,—to wit, *Caprington*, who was *heir of line*, and *Prestonfield*, who was *heir-male* of the common ancestor,—resolved into this, which of them was entitled to the *full arms and supporters* of the family; or, in other words, which was to be considered the head of the family, and which was bound to bear the arms with a *difference or mark of cadence* indicating the junior branch. Caprington represented the senior co-heiress of line. Prestonfield, a junior branch, was, however, heir-male. The question was complicated, and eventually controlled, by a family Act of Parliament obtained by Prestonfield to enable him to feue parts of that

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\* Doctor Johnson thus explains the word obreption: “Creeping on with secrecy, or by surprise.”

entailed estate. Another object of the Act, as narrated in the preamble, was to enable Sir Robert Dick, notwithstanding certain restrictions in the tailzie, to assume the surname of Cunyngham, and arms of Cunyngham of Lambrughton, in addition to his own surname, arms, and title, as being the nearest *male* representative of that family. Permission to do so was granted in the statute, but only under a very special and important qualification, which, in arranging this family matter, passed with consent of all concerned. The qualification was in favour of the senior *heir of line*, and couched as follows :—

And whereas the *senior heir of line* of Sir John Cuninghame, Bart., of Lambrughton, and of Sir James Dick, Bart., of Prestonfield, has succession to *all their indivisible heritable rights*, not carried from him by entail or settlement, and specially has right to bear and use the arms and supporters of his said ancestors : Be it therefore enacted, that the said rights and arms are hereby reserved entire to such *senior heir of line*, and that the said Sir Robert Keith Dick being a *younger branch* of the said families, he, and his heirs male, in taking the name of *Cunyngham* and arms of Cunyngham of Lambrughton, *shall do so with the difference or mark of cadence in the arms applicable to such junior branch.*

Sir Robert of Prestonfield then petitioned the Lord Lyon to exercise his ministerial office in arranging this addition to his name and armorial bearings, in terms of the private Act of Parliament and the heraldic usage of Scotland. The Lyon-Depute (the late Mr Tytler), strongly predisposed in favour of *heirs male*, though a junior branch, *assumed*, and laid it down, that, but for the saving clause in the Act, Sir Robert would have been entitled to carry the arms of those families (of both of whose baronetcies he was in possession) quarterly without brisure or mark of cadency,—a very moot point. But, by way of obedience, and bowing very stiffly to what he considered a presumptuous statute, the acting Lyon, his bristles all staring (for he was then a more *pugnacious* Lion than afterwards in the Auchencruive arrangement), appointed the Lyon-clerk to prepare a patent of the whole family arms for Sir Robert, "and, *for difference*, on a canton the *badge of Nova Scotia*" ! Now, this was a leonine dodge, and very false heraldry ; for the Nova Scotia badge is a royal augmentation of armorial honour, which was conferred on those knights by their sovereign when the Order was first instituted, and is in fact a grant of part of the royal arms. To carry it on a canton



(or small square in the upper corner of the shield) is the very mode in which many of these baronets display that honour; and as Sir Robert of Prestonfield was a Nova Scotia baronet he thus escaped from the mark of juniority and cadency altogether. It in fact made the badge stand both for royal *augmentation* and family *diminution*, an incongruity greater than Goldsmith's frugal furniture,—

“A chest contrived a double debt to pay,  
A bed by night, a chest of drawers by day.”

But this was not all. Prestonfield had long been in the habit of supporting his shield with two rampant white horses; and, although the clause in the Act expressly reserved to the senior heir of line “the arms and *supporters* of his ancestors,” the saucy Lion, upon the assumption that to award supporters was a paramount and exclusive right in the Lyon Court,—Act of Parliament or no Act of Parliament,—decreed that the *heir-male* might do so still, to the exclusion of the senior *heir of line*; and he authorised the Lyon-clerk to add them accordingly, with a destination to the heirs-male of the family. All this was coming it a little too strong, in the face of such instances as the royal House of Stuart, the ducal House of Buccleuch, and many more of a like kind.

The case, as we may now design it, of the *White Horses*, was advocated to the Court of Session, after an awful worry in the Court where the Lion “ramps in gold,” some of which of course fell to either counsel in the shape of *largesse*. Then came the tug of war between *heir of line* and *heir-male* for a pure shield without *brisure*, supported by two white horses. 'Twere hard to tell what fields were fought in Outer-House and Inner-House; none so fierce since the “Lion beat the Unicorn round about the town.” This time, however, it was the unicorn that beat the lion, at least round about the Court of Session. The case was eventually discussed on printed memorials, to enlighten the First Division upon a subject quite within their jurisdiction, but somewhat out of their usual routine.

The *heir-male* maintained, as a preliminary, that the Lyon King could not be reviewed. But the case of *Dundas v. Dundas* had settled, in 1762, that he could, when he was brought down from his rampant

position by a unanimous roar from the whole *menagerie* of the "Auld Fifteen." This was subsequently confirmed in 1826, when Greek met Greek in the contest that shook Scotland between the belligerent chiefs of Glengarry and Clan-Ranald. That same plea was once more attempted in this battle for the White Horses, and finally settled against the Lyon.

On the merits as to whether *senior* heir of line, or *junior* heir-male, was head and chief of a family, and exclusively entitled to the full arms, the Court was sorely puzzled. Having asserted their supreme right to ride the Lyon, they found themselves very much in the predicament of a tyro in horsemanship, who has acquired a gallant and fiery steed he cannot manage, and fears to mount. All the Judges, including the Lord Ordinary, wisely took refuge in that clause of the private Act of Parliament which had expressly given it in favour of the heir of line. They held that the Lyon must obey the statute in every particular, whether its directions were consistent with the laws and practice of heraldry or not. On the point, however, of making the badge of Nova Scotia serve the turn of a *brisure*, they unanimously faced the Lyon on his own ground. They taught him this easy lesson in the science armorial (which the worthy Lyon knew very well before), that the *Nova Scotia* badge is a mark of honour, and not of genealogical inferiority, and therefore could not be manipulated into a *brisure* even by a sleight of paw on the part of the Lion-King. As well, they said, "might the coronet of a peer be assigned to him as his mark of cadency from an older stem." But as for the plea that it was the especial and exclusive privilege of the King of Arms to assign supporters to any shield he might deem worthy of it, their Lordships again retreated behind their impregnable redoubt, the Act of Parliament, which had assigned these white horses to the heir of line.

There can be no doubt whatever of the propriety and wisdom of the Court in founding their judgment entirely upon the special statute, and reserving themselves on the general question. But there were two of the number on that Bench whose minds were much too keen and subtle to let it alone—Lords Jeffrey and Fullerton. Both would fain have gone into it more fully. Lord Jeffrey, after dallying with the general question

in his usual ingenious and playful manner, came to a conclusion which seems the only sound one. It was this:—"The respondent said, the plain common-sense view of the matter was in favour of the right of the heir-male. If I may be *permitted* to take a common-sense view, I would say that there is neither an *inflexible* rule nor a *uniform* practice in the matter. There may be cases in which the heir of line will exclude the heir-male, and there may be cases where the converse will be held. In my opinion the common-sense rule is, that the chief armorial dignities should *follow the more substantial rights and dignities of the family*." Lord Fullerton would not admit that in every case where there is a collateral heir-male, and daughters heirs of line, that the former must carry the family arms "under a brisure, or mark of cadency." But his opinion resolved virtually into that announced by Lord Jeffrey. "The advocate," he said, "has put the case of a *peerage* going to a female, the heir of line, or of the descent of a *territorial possession* on a female the heir of line, and asks whether, in such circumstances, the heraldic distinction would not go to the heir of line, though a female, to the exclusion of the heir-male? I think it quite possible that, in such circumstances, the Lyon Court would award those armorial distinctions to the heirs of line; and the cases referred to are instances of that being done, and acquiesced in by the heir-male.\* But suppose it the other way?"

The crucial test, as regards honours, is a *peerage* (especially when accompanied with estates) which may be either male or female, and not a baronetcy, the rule of which is limitation to heirs-male, with only such exceptions as strengthen it, and which is often held without representing an acre of the family estates, a state of matters that rarely happens in the case of a *peerage*. In this case the senior co-heiress inherited the principal portion of the great estate of Caprington, including the castle and manor-place.

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\* The cases referred to (not to speak of royalty) were the ducal families of Hamilton, Buccleuch, Queensberry, Roxburgh, and Sutherland; the earldoms of Rothes, Errol, Loudon, Dysart, Seafeld, and Orkney; and the baronies of Salton, Gray, Sempill, Napier, Nairn, and Polwarth.—(See printed Memorials for the parties, *Session Papers*, vol. 440, No. 187, and Case, 18th June 1849). The whole subject is admirably epitomised, and all the legal authorities well collected and applied, in Mr George Seton's able and beautifully illustrated Treatise on the Law and Practice of Heraldry in Scotland, published by Edmonstone and Douglas, 1863; and already deservedly out of print. Nothing of the kind could be better than this most complete handbook of the noble science, which it has done much to resuscitate.

It must now, however, be considered as finally settled, that the right to carry armorial bearings of a particular configuration, to the exclusion of others whose ambition it may be to adopt the same, involves a question of property. The most learned of our institutional writers on civil law reckon among "real injuries," and punishable as such, the assumption of the coat-armorial belonging to another. Sir George Mackenzie lays it down as being just as bad as tearing the coat off one's back. He expressly classes the "wearing in contempt what belongs to another man as a mark of honour" with the act of "*razing* shamefully a man's hair or beard," or "offering to strike him in public," or "riving and abusing his clothes." Erskine, one of the greatest and gravest of our legal authorities, states it even more strongly. "Real injuries," he says, "are committed by doing whatever may either hurt one's person, as giving him a blow; or may affect his honour or dignity, as the bare aiming of a blow without striking; *assuming a coat of arms*, or any mark of distinction proper to another; *spitting in his face*," &c. &c.; and may be punished, he adds, by fine or imprisonment, according to circumstances. The Court of Session, indeed, is not the Court of Arms in the first instance, nor will it entertain discussions in the abstract as to the proper blazoning and differencing of arms; neither will it hear any man, against the Lyon King's award, who cannot establish a *persona standi* in the cause, by showing that his own armorial rights have been invaded or denied to him. Nay, a man whose right to armorial supporters is proved beyond question will not be heard upon the grievance that supporters, not being his, have been granted to another against the proper principles and practice of heraldry. Such cases of ignorance or abuse must be left to the tribunal of taste and the finger of ridicule. But if the *very* armorial shield, in conjunction with the *very* supporters, belonging, of ancient and incontrovertible right, to one man, be assumed by another, I would not be in that other's coat, no, not though it were trimmed with ermine, and lined with bezants. Now, if this really be your doing, Sir, hasten, at least, to plead the commission of your lamented patron, and the will of the deceased King of Arms—upon whom the charge will fall like snow

on their graves—and extricate yourself from the lion's skin as speedily as you can.

It was my very learned opponent in this case of the white horses, Cosmo Innes, who deplored the monopoly of heraldry in the hands of the lapidary and the coach-painter. He was not aware of an example I must now relate, which is directly in point, and at the same time belongs to my present task of rescuing the heraldry of "Lanox of Auld" out of the hands of higher authorities than those ingenious craftsmen.

A letter, dated from the University of Toronto, 29th August 1872, appeared in the *Scotsman* newspaper about that time, addressed to Mr William Hay, the architect entrusted with the restoration of the choir of the Collegiate Church of St Giles in Edinburgh. The letter is from no less an archæologist than our former townsman Dr Daniel Wilson, to whom we owe that charming work, "Memorials of Edinburgh in the Olden Time," and who now occupies a professor's chair in the university from which he writes. The patriotic professor expresses a praiseworthy anxiety that the few ancient obituary monuments and heraldic memories with which the venerable fane of his "own romantic town" is yet illustrated should be better cared for than upon a former occasion, when this piecemeal work of "restoration" was recklessly conducted and deplorably failed. "I observe," he writes, "with much interest, the progress of the new movement for the restoration of the choir of St Giles, and am glad to see it is entrusted to your care. I have been unexpectedly applied to to prepare a new edition of my 'Memorials of Edinburgh in the Olden Time,' " &c. And accordingly, with that desirable object in view, Mr Hay's distinguished correspondent proceeds to entreat him to have a care of the old heraldic monuments belonging to the church, and to keep him, the expatriated archæologist, *au fait* as to any discoveries of the kind that may be brought to light in the course of these operations. Among other suggestions, he says: "You may possibly come on the remains of a recessed altar on the north side of the choir, corresponding to the Napier tablet on the outside.\* If so, it is the remains of the old Napier

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\* See before, page 84, as to the origin of this "recessed altar."

monument, which the family might be induced to restore." This is all very well; but it happens unfortunately that there is another important memorial to that family, within that same choir, which requires no other restoration than being restored to the family who have been deprived of it. I grieve to say that Dr Daniel Wilson himself is responsible for the fact, and entirely owing to that neglect of the science of heraldry, and reliance on *lapidaries*, which Professor Innes so justly deplored. That one should be put to rescue an ancient heraldic monument, or "memorie" in stone, of a distinguished Scottish worthy, dating so far back as four hundred years ago, from the hands of so enthusiastic an *ecclesiologist* as the author of "Memorials of Edinburgh in the Olden Time," is the more provoking, that the grave mistake in question occurs in a work that is altogether one of the most delightful of the kind that ever issued from the press of Scotland. But *fiat justitia ruat cælum*.

The old choir of St Giles contains a cluster of memorial pillars, combining the pious purpose of obituary memories with that of supporting the sacred edifice. Upon the capitals of these fine stone pillars various shields are carved, the armorial bearings on each of which were supposed to indicate sufficiently, in after times, the particular worthy to whom it was dedicated, and also to preserve another record of the date of that part of the building. The "King's Pillar," as it is now called, on the capital of which is carved the arms of Scotland impaled with Gueldres, indicating James the Second of Scotland and his Queen, enabled Dr Wilson to determine an approximate date of the erection of this portion of the church, which he hypothetically limits between 1438 and 1460. He then proceeds to explain the less obvious meaning of the armorial bearings on the capitals of the other pillars,—with only one of which, however, I have now to deal. That one he reads as follows:—

"On the engaged\* pillar to the south of the altar the arms are those of *Isabella Duchess of Albany and Countess of Lennox*, who, in 1450, about a year before her death, founded the Collegiate Church of *Dumbarton*, and largely endowed other religious foundations."

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\* Sometimes called a *demi* pillar, part of it being occupied with a wall of the building.

The first critical remark which this suggests is, that to assume this great lady's beneficent piety to St Giles, with which she had nothing to do, because of her pious patronage of Dumbarton, her own especial town, is a *non sequitur*. And this is the less excusable in such an authority, that he simply copies, and in *ipsissimis verbis*, that unreasonable reason from a genealogical lapidary, whose weak speculation on that memorial pillar he entirely and most unfortunately adopts. So we learn from the only authority Dr Wilson quotes, which he gives in a foot-note, as follows:—"A letter on the subject of these armorial bearings, signed A. D.,—the late *Alexander Deuchar*, we presume, a *first-rate authority* in all matters of heraldry,—appears in the Scots Magazine, June 1818. The writer promises to send the result of further observations, but he does not appear to have followed out his intentions." King David be praised.

Shade of Cosmo, the clerkly and the learned! The blundering correspondent of the Scots Magazine, in 1818, was indeed Alexander Deuchar, a very worthy citizen, and enthusiastic collector, after his own indiscriminate fashion, which, however, rendered him both useful and popular in his day. He was by profession a lapidary and seal engraver. That of course led him to dabble a great deal in heraldry and genealogies; but he was very far indeed from being "a first-rate authority" in either, a character given him for the nonce when our *ecclesiologist* was somnolent.

The armorial shield in question displays, in the language of heraldry, a *saltier engrailed cantoned by four roses*, bearings of which I have already said enough to indicate whose they are likely to be. No herald worth a tag of his tabard would assign them to the Duchess-Countess of the Levenax. Nor could any one at all well read in heraldry fail to recognise in that simple cognisance either a cadet or a vassal of her earldom. There is no more indication of Lennox pure on that pillar than there is in your "Lennox" marshalling for the House of Auchincruive. In Henry Laing's Catalogue the Duchess-Countess's ensigns armorial are thus accurately recorded:—

*Per pale.* Dexter, a *saltire* cantoned with four roses. Sinister, per fess, in chief a fess chequé, with a label of three points for Stuart. In base, a lion rampant, for Albany. The

shield is suspended from a tree. At each side is a heart, and the background ornamented with foliage.

SIGILLU. ISABELLE DUCHISSE ALBANIE ET COMETISSE DE LEVENAX.

*This fine and interesting seal is appended to a charter by the Duchess of the lands of Duntreffe, &c., to William de Edmonstone of Culloden, Knight. 15th February 1445.—Duntreath Charters.*

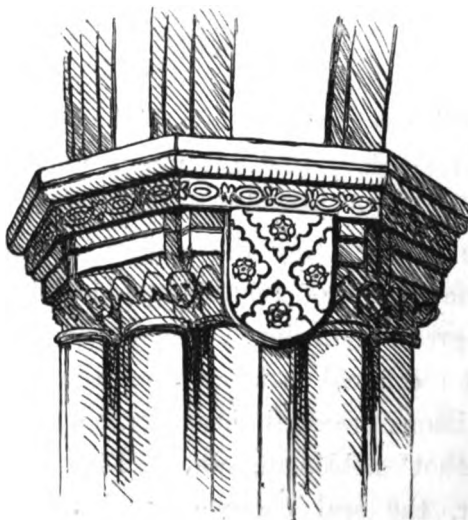
Unfortunately Mr Laing has not engraved this beautiful seal in his valuable Catalogue, to which it would have contributed another great embellishment. I have had it cut in wood, however, and very well done, by Mr Corner, from a cast and a glass impression furnished by Mr Laing himself. Pray observe, Sir, that the Lennox saltier in this seal is *not engrailed*, which affords another correction of your Lennox marshalling.



More than forty years ago I myself had perfectly satisfied the worthy genealogical lapidary that his interpretation of the Merchiston memorial pillar was false heraldry. The late Lord Napier and I were at that time investigating the subject of the Lennox armorial bearings, which the errors of Sir George Mackenzie and Mr Nisbet had thrown into great confusion. The object was to clear up the family legend of an original cadency from the old earls of Lennox, which the Merchiston armorial bearings so remarkably confirmed. In a letter to that nobleman, dated 14th April 1832, I thus wrote:—"Deuchar, the seal engraver, told me he had found the *Lennox* arms among the ornaments of old St Giles's Church, in company with some others, and the royal arms so impaled as to



indicate James II. I went to his shop to look at the drawings he took. He shewed me what he said was *undoubtedly* the shield either of an Earl or Countess of Lennox, who must have been a patron of the church! Why, it is just the *Merchiston* shield, the cross *engrailed*, with the four roses. *I convinced the cunning artificer of precious stones* that this was the *Merchiston* shield." Having soon thereafter explored the old choir myself, and taken sketches for Lord Napier, I again wrote, 3d May 1832, as follows:—"I have found the shield I was in search of, still in its place against the pillar in the High Church. Against another pillar, obviously contemporary, are *these* arms clearly of James II. impaled with his wife's, her's being the lions of Gueldres. I got the key of the church one day and locked myself up in it for an hour, and I enclose a sketch of the *Napier* shield on the other pillar.\* I have *convinced* Deuchar that this is the *Napier* arms, not the *Earldom of Lennox* as he had marked it." This correction was fourteen years after A. D.'s communication to the "*Scots Magazine*," which never came to my knowledge until I read Professor Wilson's "*Memorials of Edinburgh in the Olden Time*," 1848.



\* The above woodcuts were done by Mr Corner from my rougher sketches in the letter to Lord Napier.

This *restoration*—surely not less necessary and pious than mending an old monument or saving it from decay—would be incomplete were I not to follow it up by putting the right man in the right place.

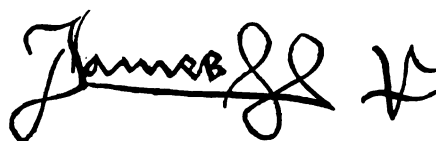
Alexander Napier, younger of Merchiston, was attached to the household of Queen Joanna, widow of James the First of Scotland, either prior to or immediately after the murder of that monarch. Urged by the forlorn and harrassed state of her widowhood, and anxious to obtain a natural protector for the young king, this ill-fated lady married the "Black Knight of Lorn," an ally of the House of Douglas. As this marriage indicated a revival of that powerful interest in her favour, a faction of the Livingstones, by whom Scotland was then governed and distracted, became bent upon a complete subjection of the royal party. Sir Alexander Livingstone was at that time governor of Stirling Castle, where the Queen had fixed her residence with her consort and the young king. Upon the 2d of August 1439 this faction seized the Queen's husband and his brother William Stewart, and cast them into the dungeons of the Castle. Nor did they rest satisfied with this outrage. Sir Alexander Livingstone and his sons, with other accomplices, determined to place the Queen herself under restraint, and upon the 3d of August 1439 effected their purpose with an extremity of violence that drew the blood of at least one brave and loyal member of the household in her defence. This atrocious attack upon the Queen, which seemed to threaten her with the fate of her husband, has been doubtingly alluded to by several historians; but the fact is placed beyond dispute by one of the proudest archives of the family of Merchiston. Young Napier, who possessed the gallant spirit and devoted loyalty which have distinguished many of his descendants, did his best to rescue his royal mistress, and fell covered with wounds.

Among the Merchiston Papers there is yet preserved a royal charter, under both the signature and great seal of James the Second of Scotland, dated at Edinburgh the 7th of March 1449-50, the fourteenth year of that monarch's reign. It is written in Latin, of which I may here give a translation:—

JAMES, &c., gives, grants, and confirms to our beloved Alexander Napare, our *Comptroller*, for his constant and faithful services betowed upon the late Queen, our dearest mother, and as compensation for severe bodily injuries, and for the wounds and personal damage he received upon the occasion of the violent capture and incarceration of our said dearest mother, iniquitously perpetrated by *Alexander de Levingston, knight*, and *James de Levingston, his son*, and their accomplices ; and also for faithful services performed, and to be performed, to ourselves, All and Whole our lands of PHILDE, with its pertinents, lying within our lordship of Methven and county of Perth ; which lands of PHILDE have fallen into our hands by reason of the forfeiture of *Alexander de Levingston*, son of the said Alexander de Levingston, knight, &c.

At Edinburgh, 7th day of March 1449, and fourteenth year of our reign.

(Signed)


 A facsimile of the signature of James II, written in a cursive script. The signature consists of the name 'James' followed by a large, stylized 'II' and a small flourish at the end.

The date of this interesting and historically valuable document is ten years after the event it records, which occurred when the King was an infant of six years of age. This was James II., called of the "fiery face." The above is a fac-simile of the young King's signature before his rash hand was stained with the blood of Earl Douglas. Ere completing his nineteenth year he had been married to Mary of Gueldres, shortly before the meeting of Parliament in September 1449, and about six months prior to the date of the above charter, which is early in March 1449-50. Hardly were the tournaments over, wherewith James II. honoured his bride, than the scaffold arose, and streamed with blood "for crimes commitit agaynes our deirest modir of gud mynde." Robert Levingston, Comptroller in the royal household, and Alexander Levingston, the King's vassal in the lands of Philde (the two sons of Sir Alexander, who seem to have been the ringleaders in the attack upon the person of the Queen Dowager), were hanged on the Castlehill of Edinburgh, and their heads stricken off, in the month of January 1449-50 ; and all the rest of the Levingston faction were cast into prison, or forced to betake themselves to their baronial strongholds.

But the justice of the young King did not stop here. Ten years had elapsed since the perpetration of that treasonable violence, and it is less remarkable that the vengeance of a son slumbered no longer than that the gratitude even of a youthful King had survived so long. As the

charter of Philde proves, immediately after the execution of the two leading traitors, he bestowed the high office of Comptroller, which had been held by Robert Levingston, and the rich lands of Philde, which had been enjoyed under a crown charter by his brother Alexander Levingston, upon Alexander Napare, younger of Merchiston, who, during his father's life, was always designed of Philde. As this was the worthy to whom the memorial pillar in question was dedicated, I must here shortly trace his rise to the highest positions in the State, through a long life of dignities unsullied by a single derogatory act.

The daring temperament evinced by this act of his youth seems never to have betrayed Alexander Napier into dangerous paths of ambition. He had witnessed the fate, and risen upon the ruin of the turbulent Livingstons. Twenty years afterwards he beheld, under a new minority, the similar treason and fate of the House of Boyd. Yet he found himself in possession of the favour and affection of the third sovereign he had obeyed, and still enjoying the respect and confidence of a country vexed and degraded by its brawling barons. In 1451, before the death of his father, he was one of the ambassadors upon whom devolved the difficult and important task of establishing an amicable relation with England. The internal dissensions of the neighbouring kingdoms recommended a peaceful policy betwixt them; but it is well known that the stormy ascendancy of the House of York, and the ungovernable blood of Douglas, rendered that mission one of extreme delicacy and doubtful result. The negotiations, however, terminated favourably, and a truce was concluded for three years. A few years afterwards, and subsequent to his father's death, we find him occupying the civic chair of his native city, an honour for many years bestowed upon successive representatives of his family. This office he seems to have held as frequently as his numerous state employments permitted him to exercise its functions. There is evidence still extant of his having been provost of Edinburgh in the years 1455, 1457, and 1469. These dates comprehend the very period, towards the unfortunate close of the reign of James II, in 1460, within which the addition was made to the choir of St Giles's Church, including the memorial pillar upon whose capital we find the armorial

shield of Merchiston. It was about the year 1455 that his grateful patron, James II., promoted the marriage of the royal Comptroller's eldest son, John Napier, younger of Merchiston, to one of the greatest heiresses in Scotland, Elizabeth Menteith, coparcener of Lennox and Rusky. Doubtless the lineal descent from a younger son of the old Earls of Lennox, of which these Napiers were ever proud, was an additional reason for this splendid alliance. Elizabeth Menteith, and her sister Agnes, had become wards of the Crown by the death of their brother, Patrick of Rusky, and the avail of their marriage was in the hands of their Sovereign. This feudal casualty, called *maritagium*, was that by which the superior was entitled to a certain sum of money to be paid to the heir of his former vassal, who had not been married, as the avail or value of the *tocher* or marriage-portion. It was a very rich prize in the case of these two young heiresses; and James the Second bestowed that of Elizabeth Menteith upon the son and heir of the champion of his mother, and with it the hand of the young lady herself. This royal deed of gift is still preserved (*minus* the lands), among the archives of Merchiston, under the great seal and sign-manual of that monarch. It is in Latin, entitled, "Letters of Concession of the *Mari-tagium* of Elizabeth Menteith," and bears to be a grant from James the Second of Scotland, "to his belovit servitor John Naper, son and heir-apparent of Alexander Naper of Merchamston," of the marriage of the said Elizabeth, and all the lands and privileges belonging thereto. Given under the great seal at Stirling, 26th March (the day after New-Year's day) 1455, twentieth year of the reign, and signed



Wherever the best interests of his country were to be protected Alexander Napier of Merchiston was employed. It was discovered that merchants speculated upon the bullion which they were tempted to export; so, in 1457, he is one of those "ordaynet and chosen for visiting the monies." For many years afterwards this important subject occupied the deliberations of Parliament, and his services are constantly

in requisition. By a commission under the privy seal, preserved among the family papers, dated at Edinburgh 24th February 1464-5, "Sir Alexander Napar of Merchamston" is appointed one of the searchers of the port and haven of Leith, in order to prevent the exportation of gold and silver; and, in 1473, he is again a parliamentary commissioner for "searching of the money."

The death of his first patron, James II., by the bursting of a cannon at the siege of Roxburgh in 1460, did not retard his successful career for a moment. James III., between eight and nine years of age, was crowned at Kelso 24th of August 1460. Many distinguished persons were honoured with knighthood upon that occasion, and, among the rest, Sir Alexander Napier. The important office of royal Comptroller was still held by him. This appears from a discharge among the Merchiston papers, under the privy seal of James III., bearing that the King had "received from our belovit knight, Alexander Napare of Merchamston, our Comptroller (*nostrorum compotorum rotulatore*), good, faithful, and final accounting." Dated at Stirling 7th July 1461, "*et Regni nostri primo*." \*

(Signed)



In this same first year of the reign of the young Sovereign we find Sir Alexander Napier named as one of the ambassadors extraordinary, under a safe conduct to England, in letters-patent from Edward the Fourth, dated 24th September 1461, being the first year of that monarch's reign also. He is there designed Alexander Napare of Merchamstoun, *knight*, Vice-Admiral of Scotland.† In every mission of importance, to England or to Flanders, which frequently occurred in those troublous times, in the reigns both of James II. and James III.,

\* It is interesting to observe the young King's signature to this acquittance, of which the above is a good fac-simile. Of that date he was about two months over nine years of age.

† *Fœdera*, 24th Sep. 1461. He is named among many other statesmen, and designed "*Alexandrum Napare de Merchamstoun, militem; Deputatum Admiralli Regni Scotiæ: Ambassiatores dicti carissimi consanguinei Regis*," &c. The High Admiral of Scotland, at this time, was Alexander Duke of Albany, the King's brother.

Sir Alexander's valuable services were in requisition. In 1468 he was joined with the Chancellor Avandale to negotiate the marriage between the young King of Scots, and the still younger Princess of Denmark. This mission required great talent and tack to accomplish the brilliant success with which it was attended. Christiern, King of Denmark and Norway, at that time feudal superior of the islands of Orkney and Shetland, had been highly offended at the imprisonment of his friend and favourite, Tulloch, Bishop of Orkney, by the Earl of that name. He accordingly sent letters of no very amicable aspect to the King of Scots complaining of the indignity. Repeated remonstrances were at length accompanied with an argument more formidable to Scotland than a declaration of war. Denmark demanded the arrears of the Hebudian annual due to the crown of Norway from those islands, and Scotland found the claim not easy to evade, either in law or honour. Cupid was happily invoked against the presence of Bellona. The menace was met by a courtship of Denmark's daughter, only in her sixteenth year, with the young King of Scots, in his eighteenth; and the latter, instead of paying tribute, eventually received the valuable cession of the islands themselves, in satisfaction of the arrears of the young Queen's dower. "The negotiations," says Mr Tytler, "upon this occasion, appear to have been conducted with singular prudence and discretion;" and our historian adds a lively sketch of the rejoicings upon the occasion of those happy nuptials, which, he says, were "succeeded by a variety and splendour in the pageants and entertainments, and a perseverance in the feasting and revelry, which were long after remembered with applause."—(*Hist.* iv. 189). In the Parliament held 6th May and 2d August, "*per Prelatos Barones, ac Commissarios subscriptos*," among others named are the Chancellor Avandale, and "*Dominum Alexandrum Napier, Secretarium*."—(*Rotuli Scotiæ*).

The romantic plains of Flanders, with their rich combinations of arts and arms, where chivalry and traffic seemed like the lion and the lamb to lie down together, were familiar to Sir Alexander Napier. He was in the town of Bruges, "taking up finance," and making purchases for the King, sometime prior to 1472. The acquittance to him, under

the hand of the treasurer, dated 27th February 1472-3, is still among the Merchiston papers, and acknowledges receipt, in name of the King, "be the handis of ane richt honorable and worshipful man, Sir Alexander Napare of Merchamstoune, knight, the soume of twa hundreth pundis of usuale monee of Scotland, of certain finance tane up be the said Sir Alexander in the toune of Bruges in Flanders; and also that the King has remitted and forgevin him ane hundreth crounes for certane *grath* coft and brocht hame to the King be him," &c. The *grath* here mentioned was probably a royal suit of Flemish armour, in great request in those steel-clad times. It is not merely in matters armorial that our famous Lyon-King may be quoted:—

"Thairfoir go dres yow in your *grath*,  
And think weill, throw your hie courage,  
This day ye sall wyn vassalage :  
Than, drest he him into his geir,  
Wantounlie, like ane man of weir." \*

Besides his many employments as a statesman at home and abroad, Sir Alexander, and his father before him, belonged to that high and wealthy class of citizens in the capital of Scotland called "King's merchants," and who were in fact the bankers of the day. But more especially they had to keep open purse for the Sovereign, whose dangerous hand was often thrust therein. The first Napier designed of *Merchiston* was Sir Alexander's father, who had obtained the lands of *Nether-Merchiston* from James the First of Scotland, under a redeemable right, in security for money lent to the King; but never being redeemed, the lands soon found their way into a crown charter. Thus the title of Napier of *Merchiston* dates from 1435. As Provosts of Edinburgh, however, an office held by several generations of these Napiers in immediate succession, the *Merchiston* race of Napier can be traced so far back as 1403. Of that date the grandfather of Queen Joanna's champion stands recorded in the old books of the Guild Court as Provost of Edinburgh. They were indeed Masters in the Israel of "Auld Reekie." The provostship was a great office in those days, indicating that the burghs to

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\* Sir David Lindesay's *Squire Meldrum*. See his *Poetical Works*, edited by Mr David Laing, i. 176.



whom the metropolitan chief dignity and responsibility was intrusted occupied a position in the first rank of those "merchants and rich burghers of the deep" who then monopolised the trading wealth, and composed the aristocracy of the growing capital of Scotland. They were indeed as proud of the name of Burgess of Edinburgh as were the Romans of "*Civis Romanus sum*." Thus it was that Sir Alexander Napier, amid various important political missions, and while holding such high offices as Comptroller of the Royal Accounts, Master of the Royal Household, Vice-Admiral of Scotland, and Secretary to the Parliament, was ever and anon "sailing and passing without the realm in merchandize," and executing trading commissions for his Sovereign in the famous town of Bruges.\*

The year 1449, that in which James II. avenged the wrongs of his mother, had commenced auspiciously with his marriage to the Princess of Gueldres. Some of the negotiations which about twenty years afterwards, in the reign of James III., were intended to renew and strengthen this prudential alliance, were committed to the long tried sagacity and prudence of Sir Alexander Napier. In one of the most important of these diplomatic missions he was invested, as plenipotentiary, with very long and particular written instructions under the hand of the King of Scots, which are yet preserved among the archives of Merchiston. These were to be delivered in person at Bruges to the Duke of Burgundy, that formidable personage well described by a writer of his own time as "Duc de Bourgoyne, Prince de la Maison de France, surnome Terrible Guerrier, et qui n'a jamais cédé aux grands Roys." This terrible warrior, whose heart bounded lightly to the bugle of chivalry until it learnt a strange lesson of terror from the horns of Uri and Unterwalden, and was crushed by "the might that slumbers in a peasant's arm," then played a desperate game against the crafty Louis XI. that involved the whole of Europe.

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\* The line drawn between these trading merchant-burgesses, in the 14th and 15th centuries, and the "craftesmen" or artisans of the city, is strongly marked by the quaint legislation of the period. In 1466 it was enacted that "Na man of craft *use merchandize*, nor *sail* in merchandize, nather be himself, his factouris, nor servandis, bot gif [*only if*] he leyf and renunce his craft, but [*without*] colour or dissimulation: Item, that na man sail nor pass without the realm *in merchandize*, bot a famous and worshipfull man."—*Acts of the Parl. of Scotland*.

But the venerable knight of Philde, scarred with wounds received thirty-four years before in defence of his royal mistress, the grandmother of the King who now delighted to honour him, feared not the face of the *terrible guerrier*. Indeed he was no stranger to Charles the Bold, at whose Court he had often been, and where doubtless he was highly esteemed. He was in Bruges during the great festivities attending the nuptials of Burgundy when the *tournament of the golden tree* was held; and probably was selecting armour for his Sovereign in that romantic town when it was under all the excitement of a chapter of the *Toison d'Or*.

While the political relations of England and France, as affected by the ambition of Burgundy, are recorded in the contemporary chronicle of Commynes—picturesque as Burgundian chivalry—and in the modern history of Barante—exuberant and glowing as romance—our own historical sources afford only imperfect glimpses of the foreign policy of Scotland in those stirring times. There is more of the history of this serious crisis in Sir Alexander Napier's Instructions, although they have never entered History, than we find even in Tytler, our latest and best historian. They are entitled,—“Instructionis to be gevin to Schir Alexander Napare of Merchainstoun, Knicht, on the behalve of the King, to be shawin to the Duc of Burgunze, his derrist Coussing and Confederat.” Each sheet is signed by James III., but singularly enough the important document bears no date. That, however, is supplied by letters of protection under the Privy Seal of the same monarch, for the lands, servants, and goods of his beloved familiar Sir Alexander Napare of Merchamstoun, knight, ordered forthwith beyond seas on His Majesty's service; and from all pleas, &c. from the day of his departure to the day of his return, and forty days thereafter; dated at Edinburgh the 1st day of May 1473.

These secret “Instructions” from James III. to Charles the Bold of Burgundy have been deemed of sufficient historical value to be reproduced, by means of that variety of photographic art which has obtained the name of *Photozincography*, in one of the most beautiful and valuable works that has ever illustrated the historical antiquities of Scotland and the wonderful progress of art in modern times. The full title of it is

given below.\* The plan of the work is not only to present and preserve, in most accurate facsimile, each document as it occurs, but also to give the same in most readable types, and moreover, to add a translation, if the document be in a foreign language. It is quite unnecessary, therefore, to give even a sketch of Sir Alexander's Instructions to the Court of Burgundy, although full of interesting history not to be found elsewhere. That in this his last and most confidential mission he had thoroughly satisfied his royal master, is placed beyond doubt by the following interesting document, still preserved in the charter-chest of his lineal descendant and representative, Lord Napier. Sir Alexander had set out to Bruges, on or about the 1st of May 1473. He returned, evidently in high favour, to his post in the Household, not long before the 24th of October of that same year. At this time, his daughter-in-law, Elizabeth Menteith, made up her titles to her quarter of the Lennox. She proved her propinquity and right of heirship, and took infeftment *pro indiviso* in her quarter of the Lennox in the month of November 1473, immediately after the return of her father-in-law from the Court of Burgundy. Of course in thus establishing her feudal right she and her husband had to account and compound for the casualties due to the Crown on obtaining feudal entry to that great heritage. How this important matter was settled is fully explained by the terms of the following royal gift under the Privy Seal and sign manual of James III.

James, be the grace of God King of Scottis, to all and sundry oure liegis and subditis, quham it efferis, to quais knaulage thir oure letters sal cum, greting :—Forsamekill as oure lovett famaliare knicht and maister of housshald, Alexander Napar of Merchamstoun, has composit with us on the behalve of Johnne Napare, his sone and are, and Elizabeth his spouss, for the soume of twa hundir markis, and fifty markis, of usuale money of our realme, for the composition of the parte of the Erldome of Levenax pertenying to the saide Johnne be ressoun of his saide spouss, in a part heritare of the saide Erldome,—The quhilk soume of twa hundir and fifty markis we have, in favour of the saide Alexander, *for his lele and treu*

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\* "Facsimiles of National Manuscripts of Scotland, selected under the direction of the Right Honourable Sir William Gibson-Craig, Bart., Lord Clerk Register of Scotland, and *Photazincographed*, by command of Her Majesty Queen Victoria, by Colonel Sir Henry James, R.E., Director of the Ordnance Survey. Published by authority of the Lords Commissioners of Her Majesty's Treasury, under the direction of the Lord Clerk Register of Scotland." This magnificent publication, for which Scotland is mainly indebted to the patriotic energy of Sir William Gibson-Craig, is comprised in three parts, royal folio, published respectively in 1867, 1870, and 1872. Sir Alexander Napier's Instructions to the Court of Burgundy, compose No. 61, Part II.

*service done of lang tyme to us and our progenitouris of most noble mynde, remittit and for-gevin, and be thir oure lettres remittis and forgeivs, to the saide Johnne and Elizabeth his spouss; and quit-clemys and dischargis thame, thare airis, executouris, and assignais thareof, for us and oure successouris for euermare, be thir presentis gevin undir oure prive-sele, and subscrivit with oure hand, at Edinburgh, the xxiiij day of October, the yere of oure Lorde a thousand, four hundreth, seventy and thre yeris, and of our Regnne the xiiij zeir.*



Well merited was the compliment which the King here pays to his faithful servant. His country and the different Sovereigns he so long served could scarcely have extracted more good service from the talents and activity of a single subject, who never brought either himself or his royal masters for a moment into troubled waters. Hurried repeatedly and alternately from the royal household to the civic chair—from judicial functions to legislative deliberations—from domestic finance to foreign diplomacy—his whole life seems to have been a constant round of dignities, embracing occupations of the most opposite and arduous nature. What I have now recorded is the mere outline of a career the minute details of which have all perished under the effacing finger of time. But they could not fail to have been both curious and instructive. Let us at least save to him his *Memorial Pillar*, in the choir of old St Giles, where he lies. He was deposited in the family vault beneath the "recessed altar," to which Professor Wilson refers in his letter from Toronto, little witting what injustice he had done to its venerable occupant. The confirmation under the great seal of James IV. of the charter of mortification, to pray for his soul, and that of his spouse Elizabeth Lauder, and of the four Jameses, and of others, of the Napier family, has been already noticed (p. 84). That the period of his death was only a few months after quitting the presence of Charles of Burgundy is proved by the fact that his son and heir was infeft in the lands, commonly called

the "Pultre lands," to which was attached the royal office "Pultrie Regis," as nearest lawful heir of *the late* Sir Alexander Napare, his father, 15th February 1473-4 (see before, p. 85). Sir Alexander, independently of the vast estates brought to the family by the marriage of his son to the co-heiress of Rusky and Lennox, must himself have been very wealthy. I have not been able to trace the history of the lands of Philde, in the lordship of Methven, or to ascertain their extent. But the Comptroller, before the death of his father, the first designed of Merchiston, took the designation of Philde, which he might well be proud of. Probably these lands were of no inconsiderable value. A crown charter, dated 24th May 1452 to "Alexander Napare of Philde," of the lands of Lindoris and Kinloch in Fife, is yet among the family papers. He had also a crown charter of the lands and miln of Balbartanis in Fife, "sometime belonging to our cousin James Lord Dalkeith," dated 20th October 1456. He succeeded his father in the estate of *Nether-Merchiston*, and the feu-charter of his own acquisition of *Over-Merchiston*, originally held of the church of St Giles, is preserved among the archives of the good town. The two portions of Merchiston were ere long united into a free barony. And thus was founded the great burghal, knightly, baronial, and eventually noble house of Merchiston. He was the great-grandfather in the sixth generation, from father to eldest son, of the great Napier. Besides his son and heir, who, there is reason to believe, lost his life at the disastrous affair of Sauchieburn, where his ill-fated royal master perished so miserably, Sir Alexander Napier had a second son, Henry, who is frequently mentioned in the *Acta Dominorum Concilii*, as Sheriff-depute of Edinburgh, and also as Admiral-depute of the port of Leith. Sir Alexander's only daughter Janet was married (as already stated, and illustrated, p. 70), to Sir James Edmonstone of Edmonstone, a great marriage. Her two daughters, the co-heiresses of Boyne and Tulliallan, were through that alliance great-grandchildren to King Robert II.

Having rescued this monument, to the family of Merchiston, out of the hands of lapidaries, ecclesiologists, and archæologists, and placed the right man in the right place, I have still something more to say on the subject of that group of memorial pillars in the old choir of St Giles.

They certainly afford a curious justification of the lament, and the rebuke, which the late Professor Cosmo Innes bestowed upon "the total and contemptuous neglect of the science of heraldry in this country." The various armorial shields attached to these pillars have found a fitting place—had they been rightly instead of carelessly expounded—in Mr David Laing's historical notices of the church of St Giles, by way of introduction to the Cartulary of St Giles, which he edited for the Bannatyne Club in 1829. In that introduction, learned in all but its *heraldry*, will be found neat and accurate wood engravings of the armorial shields attached to these pillars, each slightly framed in a portion of the capitals upon which they are carved. Among the historical notices we find the following:—

To commemorate other benefactors, on the demi-pillar, on the north side of the eastern window, we have the arms, *three cranes gorged*, of Thomas Cranstoun, a burgess and chief magistrate of Edinburgh in 1439, and again in 1454. And on the south side, those of Napier of Merchiston, also provost of the city in 1457; on the Lennox shield a saltier engrailed cantoned with four rosetts, which the Napier family *assumed* before the middle of the fifteenth century.

Mr Laing has here escaped the blunder which disfigures so sadly Professor Daniel Wilson's "Memorials of Edinburgh," where that shield, with the Lennox saltier *engrailed*, is gravely pronounced to be the armorial bearings of Duchess-Countess Isabella of Albany and Lennox.\* It would have been strange indeed had Mr David Laing repeated that idea in 1829, which I had completely destroyed, and cleared up the whole matter, by the production of a host of family armorial seals, both in my Memoirs of Merchiston, 1834, and History of the Lennox, in

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\* When Dr Daniel Wilson's interesting letter to the *Scotsman* newspaper appeared (29th August 1872) on the subject of the restoration of the choir of St Giles (see before, p. 118), in which he states,—“I have been unexpectedly applied to, to prepare a new edition of my ‘Memorials of Edinburgh in the Olden Time,’”—it immediately occurred to me, although not having the pleasure of his acquaintance, to write to him pointing out the blunder, he had inadvertently adopted from Deuchar the lapidary, as regards the Merchiston memorial pillar, and begging him to correct it. Before I could do this, however, the second edition of his beautiful work actually appeared, dated in the same year, 1872, in which his letter from Toronto is dated. It bears to be “Printed at the Ballantyne Press, for Andrew Elliot, 1872.” It is simply a reprint of the first edition, errors *not* excepted. Of course this exonerates the absent Professor, and we should think must exasperate him. For his two pretty quartos, of a most readable size, have been crammed, unannotated, unannealed, into a single clumsy unmanageable quarto, difficult to handle, and even deprived of the ornate character of the former pages. *Eheu!*

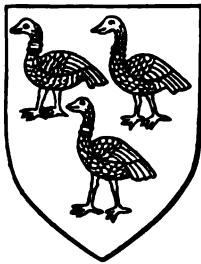
1835. But, unfortunately, he has reproduced a blunder just as great, and which had also been completely destroyed by the evidence produced in the above publications, namely, that committed by Sir George Mackenzie and Mr Nisbet, when they recorded that the *engrailed* saltier of Merchiston was the *assumption* of the *pure* Lennox bearings, to the exclusion of his own, by John Napier, younger of Merchiston, on the occasion of his marriage with the heiress of Lennox. And to shew how adhesive are such careless mistakes, Mr Laing hangs his upon the Merchiston shield he has engraved, but which, of itself, completely refutes him; for it is the armorial shield of the *father* of the man who is said to have *assumed* it from his wife, but who had simply retained the ensigns armorial borne by his ancestors from time immemorial.

My learned and much esteemed friend, Mr David Laing, whose high reputation, *in apicibus historicis*, could well afford worse hits than these, will forgive me for pointing out that he is still less fortunate in his "historical remarks" upon the armorial pillar to which he has attached the noble name of Cranstoun. With the aid of the spectacles of old Deuchar, the lapidary, he imagines that he sees, upon one of these pillar-shields, "three cranes gorged," *i.e.* collared, and he hastily pronounces it to be the ensigns armorial of "Thomas Cranstoun, a burgess and chief magistrate of Edinburgh in 1439, and again in 1454." We need not trouble ourselves to inquire which of the noble stock of Cranstoun was this Thomas, provost of Edinburgh, about the middle of the 15th century; a position, by the way, not at all incompatible with that of being *scutifer regis* in the Household, or indeed with the highest offices and employments in the State, as we have seen in the case of Sir Alexander Napier. For the whole question depends upon the assumption that the bearings on that shield are "three cranes gorged." Cranes, quotha? They are no more three cranes than they are three lapidaries. They are more like three geese waddling on a common, having collars round their necks, with which, moreover, the Cranstoun cranes were never charged. These birds are rather of a nondescript character. Nevertheless the age of the heraldic carvings in the old choir of St Giles was the best time of armorial devices; and a crane in those

days would never be so carved as to bear any resemblance to a goose. Geese, indeed, are often magnified into swans, of which we have many examples. But by no stretch of imagination, or of neck, could the birds in question become cranes. The following woodcuts will suffice to demonstrate this:—

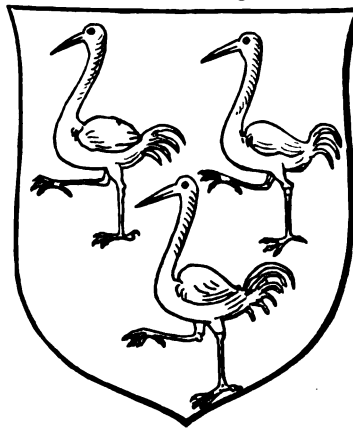
No. 2.

No. 1.



CRANSTOUN.

*Cranstoun of yat ilk*



No. 3.



*Cranstoun*

No. 1 is a repetition of Mr David Laing's woodcut, the bearings in which he pronounces to be cranes, and has therefore labelled it "Cranstoun!" His drawing of it from the pillar is perfectly accurate. No. 2 is Sir David Lindesay's authority on the subject, taken from the book of blazons to which I have appealed before, and for the beautiful facsimile of which, from the original manuscript of 1542, we are indebted to the well known care of Mr David Laing himself. There the bearings are the real Cranstoun cranes, with one foot uplifted. Could they ever be meant by the nondescripts, No. 1? No. 3 is taken from a seal attached to a letter in my possession, written by James sixth Lord Cranstoun to my mother's grandfather, Hamilton of Innerwick and Ballincrief, and dated "Crailing, August 12, 1739." Here we have a good specimen of the Cranstoun crest—a crane, with the foot uplifted holding a stone—along with which I have given



a facsimile of the writer's signature.\* This was the ensign armorial which roused poor Delorain, and his gallant dapple-grey, into chivalrous bearing and daring, when, weary and jaded as they were, they had to encounter the Lord of Cranstoun, fresh and triumphant from a stolen visit to his ladye-love. It was not fair.

But no whit weary did he seem,  
 When, dancing in the sunny beam,  
 He mark'd the crane on the Baron's crest,  
 For his ready spear was in his rest.  
     Few were the words, and stern and high,  
     That mark'd the foeman's feudal hate;  
 For question fierce, and proud reply,  
     Gave signal soon of dire debate.  
 Their very coursers seem'd to know  
 That each was other's mortal foe,  
 And snorted fire, when wheel'd around,  
 To give each knight his vantage ground.  
  
 Stern was the dint the Borderer lent!  
 The stately Baron backwards bent,  
 Bent backwards to his horse's tail,  
 And his plumes went scattering on the gale.

But, by my troth, had the casque of the errant knight been crowned with nothing better than a goose, Delorain would either have let him pass unchallenged, or sent him over his horse's tail altogether.

I regret to find that Professor Cosmo Innes's lament over Scotland's neglect of the science of heraldry must be extended even to the "Arranger of the Historical Houses of Scotland." The heraldic escapades in some of your beautiful books are really startling, and might cause old King David of the Mount to turn in his grave. I fear me your tabard would not have passed muster at the Court of Burgundy. Let me give an instance or two.

In your Book of the Carnegies, an ornate and elaborate family history in two volumes quarto, arranged for the Earl of Southesk in 1867, the attention is at once attracted to the pretty title-page. It is sur-

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\* The usual motto attached to the Cranstoun crest is the selfish one,—*Ye sall want ere I want*. But that adopted by James 6th Lord, according to the above seal—*vigilantia cresco*—conveys a worthier sentiment.

rounded by a border composed of armorial shields strung together, purporting to represent the bearings of different branches of the Carnegie family, all neat and spirited specimens of armorial drawing, and consequently appropriately ornate. The blazons of each are given on page 103 of your introduction; and page 548, vol. ii., contains a fuller notice of the arms of the different cadets. Some of these blazons, however, are of very dubious authority; accordingly your readers are thus instructed,—

Where no authority is stated for the differencing of the arms of the various branches of the Carnegie family, it is to be understood that the blazon adopted is sanctioned by usage, or by the approval of the head of a particular branch.

But what if you yourself are sometimes the only authority for a particular blazon, and that directly in contempt of the Lyon Register? The last on the list of your cadets is Carnegy of Craigo, whom you blazon thus:—

23. *Carnegy of Craigo.* Or, an eagle displayed azure, armed beaked and membered gules; charged on the breast with a *fleur-de-lys* of the first; *vide* title-page: Crest, an estoile or: Motto, *Alis aspicit astra.*—(Vol. ii. p. 550).

This, your own blazon of Craigo, you illustrate with the following note:—

In a matriculation by the Lyon of the arms of Carnegy of Craigo, *circa* 1672, as in the Lyon Register, vol. i. p. 268, the arms are blazoned as above, *except* that the charge on the eagle's breast is stated to be "a cup, or." This is *manifestly erroneous*. It gives to a cadet the arms of his chief, as then borne, *undifferenced*; and it assigns to him the special charge, which, as designative of the feudal tenure of Kinnaird, if not of the office of royal cup-bearer—Nisbet, ii. 65, 81—is restricted both by rule and custom to the individual head of the family. A *fleur-de-lys* has therefore *been substituted for the cup*, being the conventional mark of cadency for a sixth son and his descendants.

Allow me to remark, in passing, that you shew yourself much more sensitive, on the subject of marks of difference for cadets, in this Carnegie book, which appeared in 1867, than when you afterwards arranged the new coat of arms for Auchencruive. In bestowing upon that family (as descended, through females, from a *second son* of Gleneagles), a quartering which you erroneously supposed represented "Lennox" pure, and which you blazoned as such, you were pleased entirely to ignore the *crescent* with which that second son had so carefully charged his Glen-

eagles coat, for himself and all his descendants, assigning his reason for doing so,—“*And for ane brotherlie difference, in the middle fess, ane crescent.*” This I have already fully illustrated. But in arranging the House of Southesk you are down upon the old Lyon for ignorance of his craft, “in giving to a cadet the arms of his chief undifferenced,” your heraldic lecture being entirely founded upon a very strange mistake of your own, as I now proceed to shew.

You assert that, in the Lyon Register, *circa* 1672, in the case of Carnegie of Craigo (a far down cadet of Southesk), the “manifestly erroneous” blunder has been committed of assigning to him the arms of his chief undifferenced, by “stating,” in the blazoning for Craigo, that the “charge on the eagle’s breast is *a cup*, or.” You have here fallen into a very extraordinary mistake. No such statement appears in the Lyon Register! The blazon for Craigo, as it stands registered between 1672 and 1678, is as follows :—

Mr James Carnegie of Craigo, descended of the familie of Cookestoune, bears,—Or, ane eagle displayed azur, armed and membred gules, surmounted on the breast with *a booke of the first*. Above the shield, ane helmet befitting his degree, mantled gules, doubled argent. Next is placed on ane torse, for his crest, a starr proper. The motto in ane escroll, *Ales aspiciit astra*.

The “booke” was a difference accorded in allusion to the clerical vocation of the first and second lairds of Craigo, who were, respectively, Dean of Brechin and Parson of Barrie. How could you assert that the words “a cup, or” “is stated” in the Register?

But you did not stop here. Having reared your giant you proceed to knock him down. After asserting that the difference assigned to Craigo *in the Register* is “a cup, or,” and pronouncing that to be “manifestly erroneous,” you add,—“A *fleur-de-lys* has *therefore* been *substituted* for the cup, being the conventional mark of cadency for a sixth son and his descendants.” And, accordingly, we find, in the third medallion of your armorial title-page, the eagle of Craigo denuded of his book, and a provoking *fleur-de-lys* planted, by your own hand, in place of it! It thus appears that, when the spirit moves, you do not

hesitate to take the office of Lord Lyon on yourself, and to arrange and dispense family armorial bearings according to your own fancy !

But the most amusing part of the story is this : The heirship of Craigo having merged in sisters, down comes to the Lyon Office—where the incident will not be soon forgotten—the female heir, in the person of a most energetic and family-proud old lady, irate, at the disappearance of the Craigo *book*, as a lioness whose cub had been stolen, expressing great astonishment at your new *arrangement* of her ancient armorial bearings ; which, she added, were accurately displayed both on her plate and carriage. Be thankful that, in the Lyon Office, she did not happen to encounter yourself, against whom she vented her indignation in some such terms as these (I do not vouch for the precise words),—" Pray, who is Mr William Fraser ? What right or authority had he to take the *book* from the breast of my eagle and put an impudent French flower in the place of it ? Never allow the Craigo book to be separated from the Craigo eagle ; and tell Mr William Fraser to take his *fleur-de-fiddlestick* and stick it in his button-hole."

After puzzling over the matter some time, it occurs to me, that the following *misprint* on the subject, in Nisbet's great work, solves the problem of your misquotation of the Register :—

James Carnegie of Craigo, descended of Carnegie of Cookston, bears, *or*, an eagle displayed *azure*, armed and membered *gules*, surmounted on the breast with a *cup of the first* ; crest, a star, proper ; motto, *Alis aspicit astra*.—(*Nisbet*, vol. i. p. 340).

Now, the word *cup* occurring in this blazon is certainly a mistake, but it was no heraldic blunder on the part of that learned armorist. Nisbet was familiar with the Lyon Register of 1672, wherein the words relating to the Craigo bearing are " a booke of the first." He knew that the Craigo bearing was a book, as well as he knew that a *gold covered cup* was borne by the chiefs of the Carnegies. Nisbet never could have meant to assign the royal cup of Southesk to a cadet of that House, for the form of it is peculiar, and indicates its illustrious history. It was not a mere cup for five o'clock tea or after-dinner coffee, but a grand golden Benvenuto Cellini looking beaker, with an embossed cover to match,

and occupying half the blue breast of the Southesk eagle, as depicted by Sir David of the Mount himself. This historical charge is generally described as "a gold covered cup." Now, the single word "cup" occurring in Nisbet's blazon of Craigo is a palpable *misprint* for the word "book." And that is proved by the Lyon Register, from which Nisbet had actually taken the blazoning of Craigo's arms, where it really stands, "a booke of the first," as I have already shewn.

It would seem that that paragraph in Nisbet has been carelessly printed throughout; for another blunder occurs in the motto, which is there written,—"*Alis aspicit astra.*" But, in the Register, it is accurately recorded, "*Ales,*" which there stands for the bird of Jove, characteristically figured as gazing at the luminaries of Heaven.\* But your version of the motto makes the Carnegie eagle gaze with its wings! Now, your *adoption* of this 2d misprint (which not detecting you had not amended) seems to me to solve the problem of your mistaken quotation of the Lyon Register. By some treacherous trick of memory you persuaded yourself that you had caught the Lion napping, and so came the school-master over him. But it was the misprinted passage in Nisbet that must have been running in your head, and made you *fancy* that it was so written in the Lyon Register! *Parce, puer, stimulis, et fortius utere loris.*

But your most unfortunate display of heraldic,—what shall I call it—*Deucharism*,—has fallen heavily upon a pet manuscript preserved among the curiosities of the Advocates Library, namely, the venerable and original Cartulary of Cambuskenneth. A print of this you undertook to edit, as the Marquis of Bute's contribution to the Literary Club designed "The Grampian." Your munificent patron, upon this occasion, is justly complimented at the conclusion of your preface, in these brave words:—"In conclusion, the editor takes the liberty to congratulate the members of the Grampian Club on the liberality of the Marquis of Bute towards them, which is worthy of a lineal descendant of the Royal Founder of Cambuskenneth."

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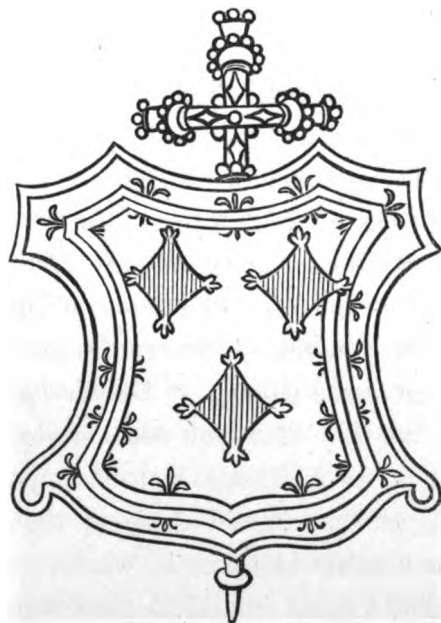
\* "*Namque volans rubra fulvus Jovis Ales in æthera.*"—*Virg.*

"For sudden, in the fiery tracts above,  
Appears in pomp the imperial bird of Jove."—*Dryd.*

Alas ! I am again constrained to say, "all is not gold that glitters." You have there reproduced in *facsimile*, with all the tinctures, two illuminated armorial pages, which form, to the popular eye, the chief attraction in this valuable manuscript. Your own description of them is as follows :—

At the end of the Register, and opposite the last engrossed page, are blazoned the armorial bearings of the two officials, *Abbot Mylne*, and the Clerk-Register *Foulis*, who were principally concerned in obtaining and superintending the transcription of the Register. The arms of the former [Abbot Mylne] are a shield *resting on a cross*, argent, 3 cushions, 2 and 1, gules, and for *crest* a cross ; motto, on a scroll beneath, *confido*. A facsimile of the page in the Register, containing these armorial bearings, will be found in the present volume.

What sad confusion is here. Resting on a cross, and a cross for crest ! Were there two crosses ? Besides, Alexander Mylne was an abbot, and the dignitaries of the church never assumed crests. Fortunately, however, the illuminated *facsimile* in the Grampian volume is more accurate and intelligible than the editor's text. But to appreciate your heraldry a wood engraving is again necessary, although no more need be presented to the reader here than a mere outline of the armorial shield in question,—as follows :—



Now, in the first place, this is most inartistically and inaccurately described as a shield "resting on a cross;" and, in the next place, there is not the vestige of a crest attached to the shield. You have mistaken for a crest the top of the *pastoral staff*, against which the shield seems to be leaning, and which happens to appear directly above the shield; the point or end of it, however, being distinctly perceptible from under the lower part of the shield! But this pastoral staff itself suffices to prove that in assigning these armorial bearings to Abbot Mylne you have not put the right man in the right place. That form of crozier is the armorial insignia of a much higher churchman. It is the crozier of an *Archbishop*, to which dignity, in the plenitude of your armorial dispensations, you have elevated a clerklly engrossing Abbot! Very little study of the subject might have saved you from the sad blunder that defaces your handsome book. Let me refer you to the Oxford "Glossary of Terms used in British Heraldry," 1847, p. 95—

*Crosier*, or *Crozier*: This word is properly restricted to the crook of a Bishop or Abbot. We shall, however, notice the *cross-staff* of the Pope, and those of Patriarch's and Archbishops, under the same head, for the sake of convenience.

The staff of the Pope is a triple cross; that of a Patriarch a double cross; and that of an *Archbishop* a single one. These, as well as all other pastoral staves, greatly vary in detail, in different examples.

Now, the form of the pastoral staff in question proves beyond all doubt that these illuminated arms must be the ensigns armorial of an Archbishop, and cannot be those of an Abbot. They are no more the arms of Abbot Mylne than of Friar Tuck. The worthy churchman who engrossed this cartulary was innocent of any idea of so distinguishing himself in the venerable volume. And moreover, in your heraldic description of that blazon, you entirely ignore the most illustrious bearing that appears upon that same shield. "The *double tressure* you might see, first by Achæus borne." But you seem never to have recognised it; although there it is, as distinctly surrounding the shield, flowered and counter-flowered, as ever herald depicted that well known royal bearing! So here is another instance in which, through ignorance of the science of heraldry, a great historical personage has been deprived

of an armorial *memorie*, bestowed upon some one else having nothing to do with it. But let me illustrate this more fully,—although I fear that nothing but a second edition can redeem your costly Grampian volume from the distressing heraldic blunder that really defeats its object.

There are two illuminated pages which adorn the original Cartulary of Cambuskenneth. The one displays the *royal arms of Scotland*; the other contains the armorial bearings of the *two great officers of State* living at the time the Cartulary was written—namely, the Lord Chancellor Dunbar, who was also *Archbishop of Glasgow*; and the Lord Clerk Register Foulis.

Gavin Dunbar was a great functionary, and in every way distinguished. He was a member of the House of Westfield; and his branch of the family, in virtue of their descent from the daughter and heiress of Thomas Randolph Earl of Moray, and also of the family having enjoyed for a time that earldom, always bore the illustrious coat of Randolph (which you have bestowed upon an Abbot, reft of its *double tressure*)—*viz.*, *argent* (in later times *or*), three cushions pendent, within the royal tressure, *gules*. At the date of this Cartulary, and for long both before and after, the family of the Chancellor bore *Randolph* as their only coat, and not, as in later times, quarterly with *Dunbar*. The pure coat of Randolph, with the pastoral staff behind it (precisely as given in the illuminated page of the Cambuskenneth Cartulary), is to be seen on the seal of the Archbishop, as described in Henry Laing's *Armorial Catalogue*, and engraved in that very handsome work, Drummond's "Noble Families." The same coat, with the pastoral staff in the same position, was carved on the gate of the Episcopal Palace at Glasgow, from which it was removed to a wall in the High Street. That, too, is engraved in the latest edition of M'Ure's *History of Glasgow, Ancient and Modern*, vol. i. p. 75. The successive Earls of Moray have all borne the Randolph coat as one of their quarters. It may be almost called the feudal coat of that earldom, and is altogether one of the most famous and historical in the Heraldry of Scotland. Alexander Mylne was Abbot of Cambuskenneth at the time when Gavin Dunbar was



Chancellor of Scotland. As a zealous and learned churchman he was most fitly and judiciously elevated to the position of President of the Court of Session by King James V., upon founding that great national Institution, the installation of which has been of late so brilliantly represented in stained glass on the great window of the hall of the old Scottish Parliament in Edinburgh. But although a man of merit and distinction, the Abbot of Cambuskenneth was of obscure birth. What arms he bore I cannot find anywhere recorded. But most assuredly he did not bear the coat of Randolph, and could never have been gifted with the royal tressure, which the Sovereign alone can bestow. The commemorative window in the Parliament House embraces, in its gorgeous design, an array of the armorial shields of the Presidents of the Session from the time of its institution, twenty-nine in number. Of these, two only, Abbot Mylne the first President, and Fenton of Prestongrange (whose father was a baker in Edinburgh), the ninth President, have their monograms substituted for ensigns armorial, owing to the absence of distinct evidence of what arms they bore. Both, however, had so worthily raised themselves from lowly origin to high distinction, that their own monograms afford a prouder memorial than the College of Arms can confer. This Parliament-House display, however, affords one of many examples, that if the science of heraldry have decayed in Scotland, the pride in it, and the use of it, still survive.

But, Sir, although in arranging the historical House of Southesk, you have disarranged the ensigns armorial of one of its scions, and disloyally denied the authority of the Lyon King,—and, while undertaking the editorial charge of the Cartulary of Cambuskenneth, have misread and mangled the illustrious coat of the Randolphs,—at last you seem to have become wonderfully well read in the armorial history of the Lennox! For I am happy to say I have now arrived at your “Pillars of Hercules,” the *Ultima Thule* of “The Lennox, by William Fraser.”

The last article of your historical volume, entitled, “Armorial Bearings of the Earls and Dukes of Lennox,” has very much the appearance of an *ex post facto* arrangement—what lawyers would call an *add and eik*, and builders a *back-jamb*. The truth is, that both as

regards the text and the beautiful armorial illustrations, this *finale* is neither more nor less than a very incongruous piece of bold *obreption*, serving no other purpose than to characterise your Lennox with another remarkable self-contradiction. The only claim of that history to originality is your assumption that Dernely represented the eldest of the co-heiresses of Earl Duncan, and that I had done him great injustice by maintaining the contrary. This rebuke occurs in your preface. In your history, however, as already pointed out (see before, p. 33), you yourself distinctly record the true fact, in the teeth of your own case. And here again, at the close of your labours, as if meant for a pendant to the foregoing self-contradiction, while you pointedly inculcate that the saltier of the *old Earls* of Lennox was never engrailed, in your preface, on the contrary, when stating your arrangement of the armorial quarterings for Auchencruive, you actually blazon "Lennox," necessarily meaning the old race, with the saltier engrailed (see before, p. 97), thereby adopting the very blunder you controvert at the conclusion of your history. But I must here quote the whole of your armorial finish, which demands a particular commentary :—

The original Earls of Lennox carried, argent a saltire *gules*, cantoned with four roses of the last. These arms are contained on page 46 of the earliest Register of Arms, A.D. 1542, by Sir David Lindsay of the Mount, Lyon King at Arms. The drawing is headed, "The Erle of Lanox of Auld."

In the same work, page 40, Sir David Lindsay also gives a drawing of the arms of "Steuart Erle of Lenox:" 1st and 4th, azure, 3 fleur-de-lis, or, within a bordure *gules*, charged with 8 buckles of the second; 2d and 3d, or, a fess chequé, argent and azure, within a bordure engrailed, *gules*; on a surtout, argent, a saltire cantoned with four roses, *gules*.

Nisbet, in his learned work on Heraldry, explains, that those who undertook expeditions to the Holy Land for the most part were crossed with the form of crosses used by their own county, so that many families in Scotland carry saltires. He adds, that Sir James Balfour, in his manuscript account of the nobility of Scotland, states that Malcolm de Lennox, one of the progenitors of the Earls of Lennox, went to the Holy Land and was crossed. He then mentions that the Lennox saltire was *engrailed*; and Nisbet gives an engraving of it in that form. *But it is a mistake, on the part both of Balfour and Nisbet, to represent the Lennox saltire as engrailed: the earliest instances shew that it was carried plain, and not engrailed, except in one instance, when Robert Earl of Lennox, the younger brother of the Regent Lennox, got a special grant of the earldom.*

The following references to *Lennox armorial seals still existing* will shew the original arms of the *first race* of Lennox earls, and also those of the *second race* of the Stuart line.—(*The Lennox, by William Fraser*, vol. i. p. 531.)

The italics are mine. But so are the facts! So are those beautiful armorial illustrations! Let me ask where you got the fact that the old race of Lennox never engrailed the saltier? And what led you to illustrate that fact with a series of armorial pictures, even to the effect of an unexplained contradiction of yourself? Why, the whole is conveyed from me! Had it been no more than a repetition of the fact, though courtesy might have suggested a notice of your authority, the transference would have been venial. But what was it to cull it out of a published controversy, along with a fac-simile of my engraved armorial proofs, and to present it to the world seemingly as the result of your own researches. Here, in the first place, are the passages in my two family histories (with which you have long been familiar) where you found the fact that the saltier of "Lanox of Auld" was never engrailed:—

Modern writers almost invariably state these Lennox bearings inaccurately. "Sir James Balfour,"—says Nisbet,—“in his manuscript of the nobility of Scotland, tells us that Malcolm de Lennox went to the Holy Land, and was crossed, for which he and his posterity carried for arms, *argent*, a saltier engrailed *gules*, cantoned with four roses of the last.” Sir David Lindesay, however, gives the cognisance of “the Erles of Lanox of Auld” in its pristine purity, *argent*, a saltier cantoned with four roses *gules*; while for the arms of Merchiston he gives the same with the cadent difference of the cross engrailed.

This proof has hitherto been lost in the inaccurate theory and false assumptions of our great oracles of heraldry, Sir George Mackenzie and Mr Nisbet, from whom it must be redeemed in order to establish its value.—(See the question fully discussed in *Memoirs of Merchiston*, pp. 11 to 17.)

Then, in my History of the Lennox, with which you have no slight acquaintance, as the parallel passages at the outset of this Epistolary Review suffice to prove, this controversial ground is all gone over again:—

Mr Hamilton (in his learned case for Woodhead) had followed Sir George Mackenzie and those heraldic writers who have erroneously recorded that the old Earls of Lennox carried the saltier *engrailed*. Now, I am not aware of a single instance to that effect. Napier of Merchiston, indeed, has carried the saltier engrailed since at least the commencement of the fifteenth century, which fact agrees with the tradition of that family that they are *cadets* of Lennox, for engrailing was unquestionably used as a *mark of cadency*. Mr Riddell, however, holds a different opinion with respect to the arms of the Levenax. That learned gentleman remarks, that the seal of Napier of Merchiston, in the fifteenth

century, "exhibits nothing but the Lennox arms, the cross being engrailed—which last fact is immaterial, for it was so occasionally carried by the principal representatives of Lennox." If Mr Riddell here refers to the *old* Earls, his assertion requires proof, for I have traced those seals through centuries, and from the old race even through many generations of the *Dernely* race of Lennox, and never could discover a single instance in support of this theory.

1. The seal and signet of Malcolm fifth Earl of Lennox are preserved in the chapter-house of Westminster, and in both of these the saltier is plain.

2. The seal of Donald sixth Earl of Lennox is also in the chapter-house, and that too has the saltier plain.

3. There is a minute description of the seal of Walter seventh Earl of Lennox, contained in a notarial transcript dated in 1440, and the saltier is not described as engrailed.

3. There can be little doubt that Duncan, eighth and last Earl of the ancient race, carried the plain saltier; for the seal of John Lord Dernely, who served heir to Earl Duncan, is preserved in the Merchiston charter-chest, and in his Lennox *surtout*, adopted in virtue of that service, the saltier is plain.

Through the Dernely race I have traced the seals of all the generations (in the Merchiston charter-chest and elsewhere) in unbroken series, till the earldom merged in James VI., without detecting a single instance of the saltier *engrailed*. In Henry the Seventh's chapel at Westminster is the tomb of the Stewarts of Lennox, surrounded by their armorial bearings, which, probably, would there be executed with scientific accuracy. Nisbet quotes the tomb in support of his description of the Lennox arms, and describes the saltiers as engrailed. Francis Sandford, who was Lancaster herald in the reign of Charles II., has given engravings of that tomb, with all its emblazoning, in his genealogical history of the Kings of England. In the engravings the saltiers are engrailed,—but, if I mistake not, *upon the tomb itself they are all plain*.\*

This elaborate refutation of the blunder in question was not unimportant. Out of that had arisen the false heraldry which led Professor Wilson to transfer Sir Alexander Napier's memorial pillar in the church of St Giles to the Duchess-Countess of Lennox. Moreover, the right reading of the Merchiston shield in some measure supplies a missing link in the remote genealogy of the Inventor of Logarithms. Accordingly I did not leave this heraldic question without support from ancient armorial family seals, as already shown in the plate that fronts page 107 of this

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\* In the course of a correspondence with the late William Lord Napier upon this point, his Lordship, in a letter to the author, dated London, 25th August 1832, says,—“I read to Sir William Woods the extract from your letter about the plain and engrailed saltiers, and he says your remark as to cadency is correct. He referred to Sandford's work, where the *representation* of Dernely-Lennox on the tomb is *engrailed*; but I went immediately to *Henry Seventh's Chapel*, and found the said arms in three instances; that is, on each side and at the foot, in the centre and in connection with the royal and other arms, with the saltiers *all plain*. Therefore you are right, and Sandford and the genealogical writers are wrong.”—(*Napier's "History of the Partition of the Lennox,"* pp. 39, 40, and *note*.)

Review. And here again, fronting this page, is the corresponding plate of Lennox seals, which you have conveyed along with the fact it was engraved to illustrate, and which so thoroughly proved my case in 1834 and 1835. The note engraved at the foot of the plate refers to the following explanation of the seals as it appeared in the *Memoirs of Merchiston*:—

*Charter Seals proving that the old Earls of Levenax did not carry the Cross engrailed.*

1. 2. The Signet, and Charter Seal, of Malcolm V. Earl of Levenax, preserved in the Chapter-House at Westminster. This was the friend of King Robert Bruce, and he who died at Halidonhill 1333.

3. Seal of John Stewart Lord Dernely, First Earl of Levenax of the usurping race, to a Contract of Agreement with Elizabeth Menteith and Archibald Napier, her son, 19th May 1490, *penes* Napier.

4. Seal of his son Mathew, Second Earl of that race, to a Precept of *Clare Constat* to Archibald Napier, 8th January 1509, *penes* Napier.

5. Seal of Mathew Earl of Levenax, Father of King Henry Darnley, to a Precept of Seisin to Adam Colquhoun, 10th November 1543.

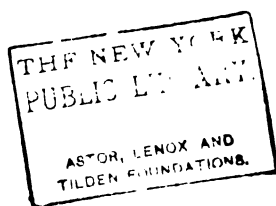
*N.B.*—The above prove both that the old Earls of Levenax carried the saltier plain, and also contradict Mr Nisbet, who asserts that the *surtout* carried by the race of Dernely was “argent a saltier engrailed betwixt four roses.”

6. Seal (*probably the only one extant*) of Robert Stewart Bishop of Caithness, created Earl of Lennox by James VI., 16th June 1578. Resigned that Earldom 5th March 1579 and was created Earl of March. This seal is attached to a Trust-Deed dated 11th December 1578, *penes* Napier, and is the *earliest instance* of an Earl of Lennox carrying the cross engrailed.

7. Seal of Ludovick, Second Duke of Lennox, from a cast by Mr Laing from the original silver.—(See *Memoirs of Merchiston*, p. 11.)

When I was first favoured with a copy of “The Lennox, by William Fraser,” I soon discovered, to my great surprise, that the Lennox armorial plates in your historical volume were just my own plate in fac-simile, although mangled, by being divided into two. You had made two bites of my cherry to suit the dimensions of your smaller quarto. But this did not suffice to disguise the fact that the contents of your two plates are *identical* with my single plate. The fac-simile is of that infinitesimally minute character that no mortal engraver, however cunning in the craft, could have accomplished it by hand and eye alone. What, then, is the precise nature of your fac-similes? In the opinion of every expert who has compared them with an impression from my plate, they





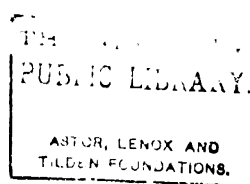
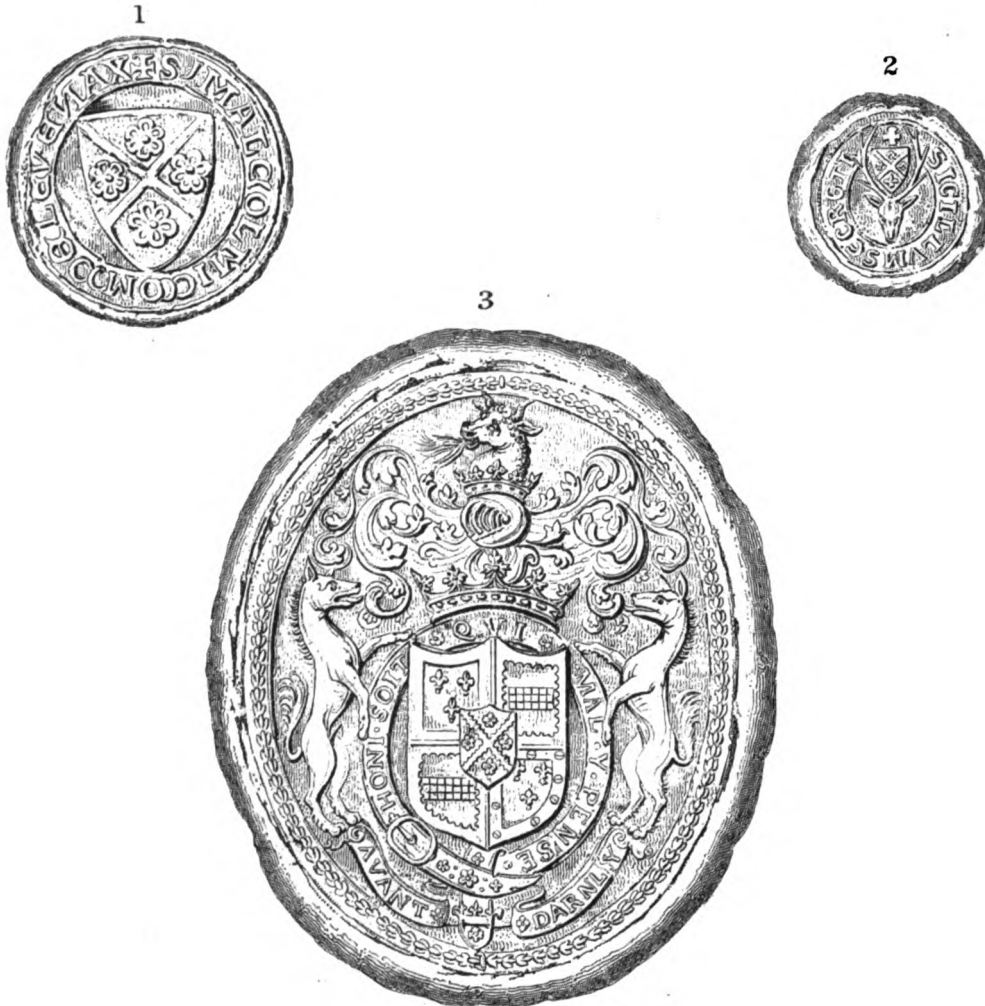




PLATE II.

PLATE I. REPRODUCED IN PHOTO-LITHOGRAPHIC FACSIMILE NUMBERED

Fig. 1.



1. Charter Seal of Malcolm, Fifth Earl of Lennox 1292.
2. Signet of Malcolm Fifth Earl of Lennox 1292.
3. Seal of Ludovick Second Duke of Lennox 1586.

# PLATE II.

AND ARRANGED IN TWO PAGES AS IN "THE LENNOX BY WILLIAM FRASER."

Fig. 2.

1



2



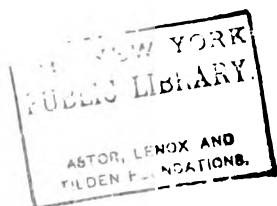
3



4



1. Seal of John Stewart, Ninth Earl of Lennox 1490.
2. Seal of Matthew, Tenth Earl of Lennox 1509.
3. Seal of Matthew, Twelfth Earl of Lennox 1543.
4. Seal of Robert Stewart, fourteenth Earl of Lennox 1578.



are not merely a copy from that impression executed by the graver, but are the result of *photo-lithography*. I have no hesitation in saying that this unauthorised use of an important graphic illustration, engraved for, and contained in, the Memoirs of Merchiston, and to be found nowhere else, was a serious invasion of courtesy, if not of copyright. But it involves more than that. Three of the most important of these seven seals are locked up in Lord Napier's charter-chest at Thirlstane, in Ettrick Forrest, from which they have not been removed, or examined, for years. One of them, it will be observed, a beautiful and perfect specimen, bearing the motto "*Avand Dernlie*" (numbered 6 on my plate, and 4 on your second plate), I had noted, in the foregoing explanation of them, as being "probably the only one extant." Now, the authority you quote for these three charter seals appearing in your work (numbered 3, 4, and 6 in my plate, and 1, 2, and 4 in your second plate) is thus given, with convenient reticence, in your note to each of them,—“Lord Napier's charter-chest”! and this without the slightest allusion to myself, from whom, in fact, the whole plate has been conveyed! Could any of your readers doubt that this reference, coming from the “Arranger of the Historical Houses of Scotland,” meant that you had, in that vocation, obtained access to the seals in question for the purpose of engraving them for your Lennox, in illustration of an important heraldic emendation seemingly of your own, and with the full permission of the noble owner? You cannot but be sensible that such is not the state of the case. These seals were only originally permitted to be engraved from the Napier charter-chest as an illustration of the history of the family, in a Life of the great Napier. To use them as you have done was an invasion of private property. Your secret mode of effecting this, secret at least from your readers, doubtless entailed much less expense upon your costly volumes than had you simply re-engraved your plates from an impression of mine. But this is not a fair way of making fine books. I must, however, take this opportunity of exonerating, unreservedly, your employers from all knowledge of these circumstances, or from any participation whatever with your *modus operandi*. The fact I believe to be, that you had thoughtlessly taken it upon yourself to put a spoke in the wheel of the contemplated

new edition of my History of the Lennox, by forestalling to this extent its illustrations.

And felt you no compunction while aiding the propensities of ambitious book-making with one of the most beautiful discoveries of modern art, the wonderful reproductive power of *photo-lithography*—the fairest daughter of photography? “Oh! *matre pulchra filia pulchrior*.” Photography reproduces the present, but fails to secure it. Photo-lithography at once reproduces and secures what to nearly all the world is already the past, or rapidly becoming so. The chief-priest at the altar of this new-born goddess is a Scottish laird.\* His gigantic tomes of the most glorious illustrations of this reproductive power, embracing every subject that defies the art of engraving, whether on metal or on wood, exhibiting (disdainful of pictorial colour) every phase of grandeur or of grace, whether in heroic portraiture or the most delicate forms of female beauty, or in architectural or floral designs, and these all gleaned from the Olden Time, have of late astonished the world, and awakened it to the knowledge of the power and the utility of photo-lithography.

Not the least of these treasures, and certainly the most *germain* to the matter in hand, is that entitled “Examples of the Ornamental Heraldry of the Sixteenth Century.” In the preface to this exuberantly beautiful collection the author deplores the decadence both of the science and the pictorial art of Heraldry throughout Europe. He adds an elaborate description of the contents of the folio, which serves to indicate, though not adequately, the scope and tendency of his unwearied researches for materials worthy to demonstrate the value and the power of the lately discovered art upon which he has bestowed so much toil and travel—indeed devoted to it his genius, his wealth, his time, his mental and his physical energies. In this noble quest, it is not too figurative to say, that like “star-eyed science,” he has wandered and searched by shore and sea,—and certainly brought home no “message of despair.”

Now, what has your Lennox done for Heraldry? On that head

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\* The late Sir William Stirling Maxwell of Keir.

I need say no more. But there is a penalty to be exacted. I *impound* those two plates of Lennox seals. They are mine, not yours. You have no more right to that beautiful bouquet of armorial seals, with which your Lennox pyrotechnics finally blaze up and die out, than to the Great Seal of England. No more right than I would have to transfer, by the same obreptitious process, that speaking portrait of Mr Oswald of Auchencruive which fronts page xiv. of your preface, in order to illustrate the page of this Epistolary Review in which I refer to that lamented gentleman with unfeigned regret and respect. No more right than I would have to appropriate, in like manner, your portrait of Esme first Duke of Lennox from the original at Bothwell Castle, to illustrate this Letter. No more right, in short, than I would have so to convey to my "Lennox lucubrations," any plate or portrait whatever, that illustrates, decorates, or (*par example*, that hideously vulgar portrait of Henry Lord Darnley), deteriorates "The Lennox, by William Fraser."

In conclusion, I take up my parable again. Your heraldic termination must stand, figuratively, for the arms and ensigns armorial you had donned when challenging the world to enter the Lennox lists against you; but which, by the laws of chivalry, must now be laid at the feet of the adventurous knight who has justified his acceptance of the too confident and imperious challenge.

And now I remain, in all courtesy, your most humble and obedient servant,

MARK NAPIER.



rw











